

Chapter 388-877A WAC

OUTPATIENT MENTAL HEALTH SERVICES

WAC

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SECTION ONE—OUTPATIENT MENTAL HEALTH SERVICES

WAC 388-877A-0100 Outpatient mental health services—General. The rules in this section apply to behavioral health agencies that provide outpatient mental health services. The definitions in WAC 388-877-0200 also apply to outpatient mental health services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Outpatient mental health services are intended to improve and/or reduce symptoms, and resolve situational disturbances for individuals in the areas of relational, occupational and/or vocational concerns.

(2) Outpatient mental health services include:

- (a) Individual treatment services (see WAC 388-877A-0138);
- (b) Brief intervention treatment services (see WAC 388-877A-0140);
- (c) Group therapy services (see WAC 388-877A-0150);
- (d) Family therapy services (see WAC 388-877A-0155);
- (e) Case management services (see WAC 388-877A-0170);
- (f) The optional mental health services described in (3) of this subsection; and
- (g) The recovery support services described in (4) of this subsection.

(3) A behavioral health agency certified for outpatient mental health services may choose to provide optional outpatient mental health services. Optional outpatient mental health services require additional program-specific certification by the department's division of behavioral health and recovery and include the following:

- (a) Psychiatric medication services (see WAC 388-877A-0180);
- (b) Day support services (see WAC 388-877A-0190);
- (c) Less restrictive alternative (LRA) support services (see WAC 388-877A-0195); and
- (d) Services provided in a residential treatment facility (see WAC 388-877A-0197).

(4) A behavioral health agency certified for outpatient mental health services may also provide recovery support services. Recovery support services require program-specific certification and include the following:

- (a) Employment services (see WAC 388-877A-0330);
- (b) Peer support services (see WAC 388-877A-0340);
- (c) Wraparound facilitation services (see WAC 388-877A-0350);

(d) Medication support services (see WAC 388-877A-0360); and

(e) Applied behavior analysis (ABA) services (see WAC 388-877A-0370).

(5) An agency providing outpatient mental health services to individuals must:

(a) Be licensed by the department as a behavioral health agency.

(b) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC.

(c) Have policies and procedures to support and implement the:

(i) General requirements in chapter 388-877 WAC;

(ii) Applicable program-specific requirements for each outpatient mental health service provided, and each optional and recovery support service requiring program-specific certification that the agency elects to provide; and

(iii) Department of Corrections Access to Confidential Mental Health Information requirements in WAC 388-865-0600 through 388-865-0640.

(6) At the verbal or written request of the individual, the agency must, if applicable:

(a) Include the individual's family members, significant others, and other relevant treatment providers in the services provided by the agency; and

(b) Document the request in the individual's clinical record.

(7) If an individual has a crisis plan, the crisis plan must be:

(a) Placed in the individual's clinical record; and

(b) Made available to the following, subject to state and federal confidentiality rules and laws:

(i) Designated mental health professionals;

(ii) Crisis team members; and

(iii) Voluntary and involuntary inpatient evaluation and treatment facilities.

(8) An agency that provides services at an established off-site location(s) must:

(a) Maintain a list of each established off-site location where services are provided.

(b) Include, for each established off-site location:

(i) The name and address of the location the services are provided;

(ii) The primary purpose of the off-site location;

(iii) The service(s) provided; and

(iv) The date off-site services began at that location.

(9) An agency providing in-home services or services in a public setting must:

(a) Implement and maintain a written protocol of how services will be offered in a manner that promotes individual and staff member safety; and

(b) For the purpose of emergency communication, and as required by RCW 71.05.710, provide a wireless telephone, or comparable device, to any mental health professional who makes home visits to individuals.

(10) An agency must:

(a) Maintain an individual's confidentiality at the off-site location;

(b) Securely transport confidential information and individual records between the licensed agency and the off-site location, if applicable;

(c) Be certified to provide the type of mental health service offered at each off-site location; and

(d) Ensure the mental health services provided at off-site locations meet the requirements of all applicable local, state, and federal rules and laws.

[Statutory Authority: RCW 43.20A.550, 70.02.050(3), 70.96A.040(4), 70.96A.155, [70.96A].157, 71.24.035 (5)(m), 74.04.050(1), 74.08.090, and chapters 70.02 and 71.24 RCW. WSR 14-06-093, § 388-877A-0100, filed 3/4/14, effective 4/4/14. Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0100, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0110 Outpatient mental health services—Agency staff requirements. In addition to meeting the agency administration and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing outpatient mental health services must ensure:

(1) Each outpatient mental health service is provided by qualified staff members who meet the following for their scope of practice and services provided:

(a) Professional standards, including documented coursework, continuing education and/or training;

(b) Clinical supervision requirements; and

(c) Licensure and/or credentialing requirements.

(2) Each staff member working directly with an individual receiving mental health services receives:

(a) Clinical supervision from a mental health professional who has received fifteen hours of training in clinical supervision approved by department of health; and

(b) Annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.030.

(3) Staff access to consultation with a psychiatrist or a physician who has at least one year's experience in the direct treatment of individuals who have a mental or emotional disorder.

[Statutory Authority: RCW 43.20A.550, 70.02.050(3), 70.96A.040(4), 70.96A.155, [70.96A].157, 71.24.035 (5)(m), 74.04.050(1), 74.08.090, and chapters 70.02 and 71.24 RCW. WSR 14-06-093, § 388-877A-0110, filed 3/4/14, effective 4/4/14. Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0110, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0120 Outpatient mental health services—Clinical record content and documentation. In addition to meeting the general clinical record content requirements in WAC 388-877-0640, an agency providing any outpatient mental health service is responsible for an individual's clinical record. The clinical record must document:

(1) That the agency requested a copy of and placed in the record, if provided, the following:

(a) Discharge summaries and/or evaluations resulting from outpatient or inpatient mental health services received within the last five years, if available; and

(b) Any crisis plan that has been developed.

(2) Any previously accessed inpatient or outpatient services and/or medications to treat a mental health condition.

(3) That services were provided by, or under the clinical supervision of, a mental health professional.

(4) Any clinical consultation and/or evaluation provided.

(5) Progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(6) That the individual was provided with information and education about the individual's mental illness.

(7) Any referrals to other services and supports, including referrals to treatment for co-occurring disorders and health care.

(8) That with the individual's consent, the individual's self-identified family members and significant others were provided with information and education about the individual's mental illness.

(9) That the additional requirements for any optional outpatient services the agency providers are met.

(10) That staff members met with the individual at the time of discharge, unless the individual left without notice, to:

(a) Determine the appropriate recommendation for care and finalize a continuing care plan;

(b) Assist the individual in making contact with necessary agencies or services; and

(c) Provide and document the individual was provided with a copy of the plan.

(11) That a discharge summary was completed within seven working days of the individual's discharge. The discharge plan must include the date of discharge, continuing care plan, legal status, and if applicable, current prescribed medication.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0120, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0130 Outpatient mental health services—Assessment standards. In addition to the assessment requirements in WAC 388-877-0610, an agency providing any outpatient mental health service must ensure the clinical mental health components of the assessment:

(1) Are provided by a mental health professional.

(2) Are initiated within ten working days from the date on which the individual or the individual's parent or legal representative requests services, and completed within thirty working days of the initial assessment.

(3) Gather sufficient information to determine if a mental illness exists, and if there are services available within the agency to address the individual's needs.

(4) Document presenting problem(s) as described by the individual. The agency may contact the person(s) who provide active support to the individual in order to validate and/or obtain further information regarding the individual's presenting problem:

(a) Only at the request of the individual, if the individual is thirteen years of age or older; or

(b) At the agency's discretion, if the individual is twelve years of age or younger.

(5) Contain sufficient clinical information, including a review of any documentation of a mental health condition

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provided by the individual, to justify the diagnosis using criteria in the:

(a) Diagnostic and Statistical Manual (DSM IV TR, 2000) as it existed on the effective date of this section; then

(b) DSM-5 as it exists when published and released in 2013, consistent with the purposes of this section. Information regarding the publication date and release of the DSM-5 is posted on the American Psychiatric Association's public website at www.DSM5.org.

(6) Contain a developmental history if the individual is a child.

(7) Are culturally and age relevant.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0130, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0135 Outpatient mental health services—Individual service plan. In addition to the individual service plan requirements in WAC 388-877-0620, an agency providing any outpatient mental health service must ensure the following for an individual service plan. The individual service plan must:

(1) Be completed within thirty days from the date of the first session following the initial assessment.

(2) Be consumer-driven, strength-based, and meet the individual's unique mental health needs.

(3) Be initiated with at least one goal identified by the individual or if applicable, the individual's parent or legal representative, during the initial assessment or the first service session following the assessment.

(4) Document that the plan was updated to reflect any changes in the individual's treatment needs, or as requested by the individual or, if applicable, the individual's parent or legal representative.

(5) Document coordination with any systems or organizations the individual identifies as being relevant to treatment, with the individual's consent or if applicable, the consent of the individual's parent or legal representation. This includes coordination with any individualized family service plan (IFSP) when serving an individual three years of age or younger.

(6) Identify services mutually agreed upon by the individual and provider for this treatment episode.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0135, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0138 Outpatient mental health services—Individual treatment services. Individual treatment services are services designed to assist an individual in attaining the goals identified in the individual service plan. The treatment services are conducted with the individual and any natural supports as identified by the individual. An agency providing individual treatment services must ensure treatment is provided by a:

(1) Mental health professional (MHP) who has documented coursework, continuing education, and/or training that specifically address individual therapy theories and techniques;

(2) Person under the supervision of an MHP (the MHP must meet the requirements in (1) of this section);

(3) Clinician who is licensed by department of health to practice independently; or

(4) Licensure candidate under the supervision of an approved supervisor, as defined in chapter 246-809 WAC, for their respective license.

[Statutory Authority: RCW 43.20A.550, 70.02.050(3), 70.96A.040(4), 70.96A.155, [70.96A].157, 71.24.035 (5)(m), 74.04.050(1), 74.08.090, and chapters 70.02 and 71.24 RCW. WSR 14-06-093, § 388-877A-0138, filed 3/4/14, effective 4/4/14.]

WAC 388-877A-0140 Outpatient mental health services—Brief intervention treatment. Brief intervention treatment services are solution-focused and outcome-oriented cognitive and behavioral interventions, intended to resolve situational disturbances. These services do not require long term treatment, and do not include ongoing care, maintenance, or monitoring of the individual's current level of function or assistance with self-care or life skills training.

(1) An agency providing brief intervention treatment services to individuals must meet the individual service plan requirements in WAC 388-877-0620 and ensure the individual service plan identifies a course of treatment to be completed in six months or less.

(2) The additional assessment and individual service plan requirements in WAC 388-877A-0130 and 388-877A-0135 do not apply to brief intervention treatment.

(3) An individual may move from brief intervention treatment to longer term outpatient mental health services at any time.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0140, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0150 Outpatient mental health services—Group therapy services. Group therapy services are provided to an individual in a group setting to assist the individual in attaining the goals described in the individual service plan. An agency providing group therapy services must:

(1) Have a written description of each group's purpose.

(2) Ensure group services are provided with a staff ratio of one staff member for every twelve individuals.

(3) Ensure a group does not contain more than twenty-four individuals.

(4) Ensure any nonmental health professional facilitating a group receives supervision by a mental health professional.

(5) Ensure any group containing more than twelve individuals has at least one facilitator or co-facilitator that is a mental health professional.

(6) Ensure group notes are recorded in each individual's clinical record before the next group meeting. Group notes must include:

(a) The attendance of the individual;

(b) The participation of the individual;

(c) Progress towards goals stated in the individual's service plan;

(d) Any significant events shared by the individual; and

(e) If the group was facilitated by a nonmental health professional as described in (4) of this section, documentation the nonmental health professional was supervised by a mental health professional.

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[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0150, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0155 Outpatient mental health services—Family therapy services. Family therapy services are services provided for the direct benefit of an individual, with family members and/or other relevant persons in attendance. Interventions must identify and build competencies to strengthen family functioning in relationship to the individual's identified goals. The individual may or may not be present. An agency providing family therapy services must:

(1) Ensure the services are provided by:

(a) A mental health professional who has documented coursework, continuing education and/or training that specifically address family systems theories and techniques in family therapy; or

(b) A staff member under the supervision of a mental health professional. The staff member must have documented training in family therapy.

(2) With the individual's written consent, provide information and education about the individual's illness to family members or other relevant persons in order to assist the individual in managing the mental illness.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0155, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0170 Outpatient mental health services—Case management services. Case management services are services that meet the ongoing assessment, facilitation, care coordination and advocacy for options and services to meet an individual's needs through communication and available resources, to promote quality and effective outcomes.

(1) An agency must provide case management services that:

(a) Assist an individual to achieve the goals stated in the plan;

(b) Support consumer employment, education and/or participation in other daily activities appropriate to the individual's age, gender and culture; and

(c) Assist an individual to resolve crises in the least restrictive setting.

(2) Rehabilitative case management services include specific rehabilitative services provided to:

(a) Assist in an individual's discharge from an inpatient facility; and

(b) Minimize the risk of readmission to an inpatient setting.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0170, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0180 Optional outpatient mental health services requiring program-specific certification—Psychiatric medication services. Psychiatric medication services are a variety of activities related to prescribing and/or administering medication, including monitoring an individual for side effects and changes as needed. Psychiatric medication services are optional outpatient mental health ser-

services that require program-specific certification by the department's division of behavioral health and recovery. These services may only be provided with one of the outpatient mental health services in WAC 388-877A-0100(2). An agency providing psychiatric medication services:

(1) Must ensure medical direction and responsibility are assigned to a:

(a) Physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or board-eligible in psychiatry; or

(b) Psychiatric advanced registered nurse practitioner (ARNP) with prescriptive authority.

(2) Must ensure that the services are provided by a prescriber licensed by department of health who is practicing within the scope of that practice.

(3) Must ensure that all medications administered by staff practicing within the scope of their practice.

(4) Must have a process by which the medication prescriber informs the individual, and/or the legally responsible party, and, as appropriate, family members, of the potential benefits and side effects of the prescribed medication(s).

(5) Must review prescribed medications at least every three months.

(6) Must complete an inventory every three months of all medication stored.

(7) Must ensure that all medications maintained by the agency are safely and securely stored, including assurance that:

(a) Medications are kept in locked cabinets within a well-lit, locked and properly ventilated room;

(b) Medications kept for individuals on medication administration or self-administration programs are clearly labeled and stored separately from medication samples kept on site;

(c) Medications marked "for external use only" are stored separately from oral or injectable medications;

(d) Refrigerated food or beverages used in the administration of medications are kept separate from the refrigerated medications by the use of trays or other designated containers;

(e) Syringes and sharp objects are properly stored and disposed of;

(f) Refrigerated medications are maintained at the required temperature; and

(g) Outdated medications are disposed of in accordance with the regulations of the state board of pharmacy and no outdated medications are retained.

(8) Must ensure that the individual clinical record contains the following documentation:

(a) The individual was informed of the benefits and possible side effects of each prescribed medication.

(b) The effects, interactions, and side effects the staff observe or the individual reports spontaneously or as the result of questions from staff members.

(c) Clinical notes that include:

(i) The name and signature of the prescribing:

(A) Physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or board-eligible in psychiatry; or

(B) Psychiatric ARNP with prescriptive authority;

(ii) The name and purpose of each medication prescribed;

(iii) The dosage, frequency, and method of giving each medication;

(iv) Identification of medications requiring laboratory monitoring and a frequency schedule for monitoring;

(v) The reasons for changing or stopping any medication; and

(vi) The dates the medication was prescribed, reviewed and renewed, as applicable.

(d) That any written orders to administer/discontinue a medication are generated by a licensed health care provider, within the scope of the provider's practice, and that:

(i) Written, dated orders are signed by the licensed prescriber within twenty-four hours; and

(ii) Telephone orders are reviewed and signed off on by the ordering licensed health care provider, within the scope of the provider's practice, within twenty-four hours and include:

(A) Documentation that clearly demonstrates emergency circumstances that required a phone order;

(B) The name and signature of the individual authorized by department of health whose scope of practice includes taking orders over the telephone; and

(C) The time, date and exact details of the telephone order.

(9) May utilize a physician or ARNP without board eligibility in psychiatry if unable to employ or contract with a psychiatrist. In this case, the agency must ensure that:

(a) Psychiatrist consultation is provided to the physician or ARNP at least monthly; and

(b) A psychiatrist is accessible to the physician or ARNP for emergency consultation.

[Statutory Authority: RCW 43.20A.550, 74.04.050, 74.08.090 and chapters 70.02, 71.24 RCW, WSR 14-18-014, § 388-877A-0180, filed 8/22/14, effective 9/22/14. Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8, WSR 13-12-053, § 388-877A-0180, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0190 Optional outpatient mental health services requiring program-specific certification—

Day support services. Day support services are optional outpatient mental health services that require program-specific certification by the department's division of behavioral health and recovery. These services provide a range of integrated and varied life skills training. Day support services are designed to assist an individual in the acquisition of skills, retention of current functioning, or improvement in the current level of functioning, appropriate socialization, and adaptive coping skills. Services include training in basic living and social skills, and educational, vocational, pre-vocational, and day activities. Day support services may include therapeutic treatment. An agency providing day support services must ensure:

(1) All day support services are provided by, or under the supervision of, a mental health professional.

(2) There is at least one staff member providing services for every twenty individuals;

(3) Staff is available five hours per day, five days per week to provide support services to individuals; and

(4) The services occur in an environment easily accessible to the individual.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0190, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0195 Optional outpatient mental health services requiring program-specific certification—Less restrictive alternative (LRA) support services. Less restrictive alternative (LRA) support services are optional outpatient mental health services that require program-specific certification by the department's division of behavioral health and recovery. These services are provided to individuals on a less restrictive alternative court order. An agency agrees to provide or monitor the provision of court-ordered services, including psychiatric and medical components of community support services. An agency providing court-ordered LRA support services must:

- (1) Ensure and document that the agency:
 - (a) Maintains written procedures for managing assaultive and/or self-destructive individual behavior; and
 - (b) Provides training to staff members on appropriate interventions.
- (2) Have a written policy and procedure that allows for the referral of an individual to an involuntary treatment facility twenty-four hours a day, seven days a week.
- (3) Have a written policy and procedure for an individual who requires involuntary detention that includes procedures for:
 - (a) Contacting the designated mental health professional (DMHP) regarding revocations or extension of an LRA; and
 - (b) The transportation of an individual, in a safe and timely manner, for the purpose of:
 - (i) Evaluation; or
 - (ii) Evaluation and detention.
- (4) Ensure a committed individual is advised of their rights under chapter 71.05 or 71.34 RCW, as applicable, and that the individual has the right:
 - (a) To receive adequate care and individualized treatment;
 - (b) To make an informed decision regarding the use of antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the individual has the right to attend;
 - (c) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation and treatment for a mental disorder;
 - (d) Of access to attorneys, courts, and other legal redress;
 - (e) To have the right to be told statements the consumer makes may be used in the involuntary proceedings; and
 - (f) To have all information and records compiled, obtained, or maintained in the course of treatment kept confidential as described in chapters 70.02, 71.05, and 71.34 RCW.
- (5) Include in the clinical record a copy of the less restrictive alternative court order and a copy of any subsequent modification.
- (6) Ensure the development and implementation of an individual service plan which addresses the conditions of the less restrictive alternative court order and a plan for transition to voluntary treatment.
- (7) Ensure that the individual receives psychiatric medication services for the assessment and prescription of psycho-

tropic medications appropriate to the needs of the individual. These services must be provided:

(a) At least one time every seven days for the initial fourteen days following release from inpatient treatment for an individual on a ninety-day or one hundred eighty-day less restrictive alternative court order, unless the individual's attending physician or psychiatric advanced registered nurse practitioner (ARNP) determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record.

(b) At least one time every thirty days for an individual on a ninety-day or one hundred eighty-day less restrictive alternative court order, unless the individual's attending physician or psychiatric ARNP determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record.

(8) Keep a record of the periodic evaluation by a mental health professional of each committed individual for release from, or continuation of, an involuntary treatment order. Evaluations must occur at least every thirty days for both ninety-day and one hundred eighty-day commitments and include documentation of assessment and rationale:

(a) For requesting a petition for an additional period of less restrictive treatment under an involuntary treatment order; or

(b) Allowing the less restrictive court order expire without an extension request.

[Statutory Authority: RCW 43.20A.550, 74.04.050, 74.08.090 and chapters 70.02, 71.24 RCW. WSR 14-18-014, § 388-877A-0195, filed 8/22/14, effective 9/22/14. Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0195, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0197 Outpatient mental health services—Residential treatment facility (RTF). A residential treatment facility (RTF) may provide outpatient mental health treatment services to an individual with a mental disorder. An agency that operates an RTF that provides mental health treatment services must:

(1) Ensure that the facility is licensed by the department of health under chapter 246-337 WAC;

(2) Be certified for and provide the following:

(a) Case management services (see WAC 388-877A-0170);

(b) Optional outpatient mental health less restrictive alternative support services (see WAC 388-877A-0195); and

(c) Optional outpatient mental health medication support services (see WAC 388-877A-0360).

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0197, filed 5/31/13, effective 7/1/13.]

SECTION TWO—CRISIS MENTAL HEALTH SERVICES

WAC 388-877A-0200 Crisis mental health services—General. The rules in WAC 388-877A-0200 through 377A-0280 apply to behavioral health agencies that provide crisis mental health services. The definitions in WAC 388-877-0200 also apply to crisis mental health services. The department requires all agencies and providers affected by this rule

to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Crisis mental health services are intended to stabilize an individual in crisis to:

- (a) Prevent further deterioration;
- (b) Provide immediate treatment and intervention in a location best suited to meet the needs of the individual; and
- (c) Provide treatment services in the least restrictive environment available.

(2) Crisis mental health services include:

- (a) Crisis telephone support (see WAC 388-877A-0230);
- (b) Crisis outreach services (see WAC 388-877A-0240);
- (c) Crisis stabilization services (see WAC 388-877A-0260);
- (d) Crisis peer support services (see WAC 388-877A-0270); and
- (e) Emergency involuntary detention services (see WAC 388-877A-0280).

(3) An agency providing any crisis mental health service to an individual must:

- (a) Be licensed by the department as a behavioral health agency;
- (b) Be certified by the department to provide crisis mental health services;

(c) Meet the applicable behavioral health agency licensure, administration, personnel, and clinical requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(d) Have policies and procedures to support and implement the:

- (i) General requirements in chapter 388-877 WAC;
- (ii) Program-specific requirements in WAC 388-877A-0230 through WAC 388-877A-0280 for each crisis mental health service provided; and
- (iii) Department of Corrections Access to Confidential Mental Health Information requirements in WAC 388-865-600 through 388-865-0640.

(4) An agency providing crisis mental health services only is not required to meet the initial assessment, individual service plan, and clinical record requirements in WAC 388-877-0610, 388-877-0620, and 388-877-0640.

(5) An agency must ensure crisis mental health services:

- (a) Are, with the exception of stabilization services, available twenty-four hours a day, seven days a week;
- (b) Include family members, significant others, and other relevant treatment providers, as necessary, to provide support to the individual in crisis; and
- (c) Are provided in a setting that provides for the safety of the individual and agency staff members.

(6) An agency providing involuntary crisis mental health services must hold a contract with the county in which it is located, or the appropriate regional support network (RSN).

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0200, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0210 Crisis mental health services—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC

388-877-0400 through 388-877-0530, an agency providing any crisis mental health service must ensure:

(1) All crisis mental health services are provided by, or under the supervision of, a mental health professional;

(2) Each staff member working directly with an individual receiving any crisis mental health service in WAC 388-877A-0230 through 388-877A-0270 receives:

(a) Clinical supervision from a mental health professional and/or an independent practitioner licensed by department of health; and

(b) Annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.030. The staff member's personnel record must document the training.

(3) Staff access to consultation with one of the following professionals who has at least one year's experience in the direct treatment of individuals who have a mental or emotional disorder:

- (a) A psychiatrist;
- (b) A physician; or
- (c) An advanced registered nurse practitioner (ARNP) who has prescriptive authority.

(4) Subsection (3) of this section does not apply to agencies that only provide crisis telephone services.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0210, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0220 Crisis mental health services—Record content and documentation requirements. An agency providing any crisis mental health service in WAC 388-877A-0230 through 388-877A-0280 must maintain a record that contains timely documentation. Documentation must include the following, as applicable to the crisis service provided:

- (1) A brief summary of each crisis service encounter, including the date, time, and duration of the encounter;
- (2) The names of the participants; and
- (3) A follow-up plan, including any referrals for services, including emergency medical services.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0220, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0230 Crisis mental health services—Telephone support services. Telephone support services are services provided as a means of first contact to an individual in crisis. These services may include de-escalation and referral.

(1) An agency providing telephone support services must:

(a) Respond to crisis calls twenty-four-hours-a-day, seven-days-a week.

(b) Have a written protocol for the referral of an individual to a voluntary or involuntary treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis, including arrangements for contacting the designated mental health professional.

(c) Assure communication and coordination with the individual's mental health care provider, if indicated and appropriate.

(d) Post a copy of the statement of individual rights in a location visible to staff and agency volunteers.

(2) An agency must document each telephone crisis response contact made, including:

- (a) The date, time, and duration of the telephone call;
- (b) The relationship of the caller to the person in crisis, for example self, family member, or friend;
- (c) Whether the individual in crisis has a crisis plan; and
- (d) The outcome of the call, including:
 - (i) Any follow-up contacts made;
 - (ii) Any referrals made, including referrals to emergency or other medical services; and
 - (iii) The name of the staff person who took the crisis call.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0230, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0240 Crisis mental health services—Outreach services. Crisis outreach services are face-to-face intervention services provided to assist individuals in a community setting. A community setting can be an individual's home, an emergency room, a nursing facility, or other private or public location. An agency providing crisis outreach services must:

- (1) Provide crisis telephone screening.
- (2) Have staff available twenty-four hours a day, seven days a week to respond to a crisis.
- (3) Ensure face-to-face outreach services are provided by a mental health professional, or a staff member under the supervision of a mental health professional with documented training in crisis response.
- (4) Ensure services are provided in a setting that provides for the safety of the individual and agency staff members.
- (5) Have a protocol for requesting a copy of an individual's crisis plan twenty-four hours a day, seven days a week.
- (6) Require that staff member(s) remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or a referral to another service is accomplished.
- (7) Resolve the crisis in the least restrictive manner possible.
- (8) Have a written plan for training, staff back-up, information sharing, and communication for staff members who respond to a crisis in an individual's private home or in a non-public setting.
- (9) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when services are provided in the individual's home or other non-public location.
- (10) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device for the purpose of emergency communication as described in RCW 71.05.710.

(11) Provide staff members who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(12) Have a written protocol that allows for the referral of an individual to a voluntary or involuntary treatment facility twenty-four hours a day, seven days a week.

(13) Have a written protocol for the transportation of an individual in a safe and timely manner, when necessary.

(14) Document all crisis response contacts, including:

- (a) The date, time, and location of the initial contact.
- (b) The source of referral or identity of caller.
- (c) The nature of the crisis.
- (d) Whether the individual has a crisis plan and any attempts to obtain a copy.
- (e) The time elapsed from the initial contact to the face-to-face response.
- (f) The outcome, including:
 - (i) The basis for a decision not to respond in person;
 - (ii) Any follow-up contacts made; and
 - (iii) Any referrals made, including referrals to emergency medical services.
- (g) The name of the staff person(s) who responded to the crisis.

[Statutory Authority: RCW 43.20A.550, 74.04.050, 74.08.090 and chapters 70.02, 71.24 RCW. WSR 14-18-014, § 388-877A-0240, filed 8/22/14, effective 9/22/14. Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0240, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0260 Crisis mental health services—Stabilization services. Crisis stabilization services include short-term (less than two weeks per episode) face-to-face assistance with life skills training and understanding of medication effects on an individual. Stabilization services may be provided to an individual as a follow-up to crisis services provided or to any individual determined by a mental health professional to need additional stabilization services. An agency providing crisis stabilization services must:

- (1) Ensure the services are provided by a mental health professional, or under the supervision of a mental health professional.
- (2) Ensure the services are provided in a setting that provides for the safety of the individual and agency staff.
- (3) Have a written plan for training, staff back-up, information sharing, and communication for staff members who are providing stabilization services in an individual's private home or in a nonpublic setting.
- (4) Have a protocol for requesting a copy of an individual's crisis plan.
- (5) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when services are provided in the individual's home or other non-public location.
- (6) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication as described in RCW 71.05.710.

(7) Have a written protocol that allows for the referral of an individual to a voluntary or involuntary treatment facility.

(8) Have a written protocol for the transportation of an individual in a safe and timely manner, when necessary.

(9) Document all crisis stabilization response contacts, including identification of the staff person(s) who responded.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0260, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0270 Crisis mental health services—Peer support services. Crisis peer support services assist an individual in exercising control over their own life and recovery process through the practice of peer counselors sharing their own life experiences related to mental illness to build alliances that enhance the individual's ability to function.

(1) Peer support services are intended to augment and not supplant other necessary mental health services.

(2) An agency providing crisis peer support services must:

(a) Ensure services are provided by a peer counselor, properly credentialed under WAC 388-865-0107, under the supervision of a mental health professional.

(b) Ensure services provided by a peer counselor are within the scope of the peer counselor's training and credential.

(c) Ensure that a peer counselor responding to a crisis is accompanied by a mental health professional.

(d) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication.

(e) Ensure peer counselors receive annual training that is relevant to their unique working environment.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0270, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0280 Crisis mental health services—Emergency involuntary detention services. Emergency involuntary detention services are services provided by a designated mental health professional (DMHP) to evaluate an individual in crisis and determine if involuntary services are required.

An agency providing emergency involuntary detention services must:

(1) Ensure that services are provided by a DMHP.

(2) Ensure staff members are available twenty-four hours a day, seven days a week.

(3) Ensure staff members utilize the protocols for DMHPs required by RCW 71.05.214.

(4) Have a written agreement with a certified inpatient evaluation and treatment facility to allow admission of an individual twenty-four hours a day, seven days a week.

(5) Have a plan for training, staff back-up, information sharing, and communication for a staff member who responds to a crisis in a private home or a nonpublic setting.

(6) Ensure that a DMHP is able to be accompanied by a second trained individual when responding to a crisis in a private home or a nonpublic setting.

(7) Ensure that a DMHP who engages in a home visit to a private home or a nonpublic setting is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication as described in RCW 71.05.710.

(8) Provide staff members, who are sent to a private home or other private location to evaluate an individual in

crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(9) Require that a mental health professional remain with the individual in order to provide stabilization and support until the crisis is resolved or referral to another service is accomplished.

(10) Have a written protocol for the transportation of an individual, in a safe and timely manner, for the purpose of medical evaluation or detention.

(11) Ensure that when a peace officer or DMHP escorts an individual to a facility, the DMHP takes reasonable precautions to safeguard the individual's property including:

(a) Safeguarding the individual's property in the immediate vicinity of the point of apprehension;

(b) Safeguarding belongings not in the immediate vicinity if there may be possible danger to those belongings; and

(c) Taking reasonable precautions to lock and otherwise secure the individual's home or other property as soon as possible after the individual's initial detention.

(12) Document services provided to the individual, and other applicable information. At a minimum this must include:

(a) That the individual was advised of their rights in accordance with RCW 71.05.360.

(b) That if the evaluation was conducted in a hospital emergency department or inpatient unit, it occurred in accordance with the timelines required by RCW 71.05.050, 71.05.153, and 71.34.710.

(c) That the DMHP conducting the evaluation considered both of the following when evaluating the individual:

(i) The imminent likelihood of serious harm or imminent danger because of being gravely disabled (see RCW 71.05.153); and

(ii) The likelihood of serious harm or grave disability that does not meet the imminent standard for the emergency detention (see RCW 71.05.150).

(d) That the DMHP documented consultation with any examining emergency room physician as required by RCW 71.05.154.

(e) If the individual was not detained:

(i) A description of the disposition and follow-up plan; and

(ii) Documentation that the minor's parent was informed of their right to request a court review of the DMHP's decision not to detain the minor under RCW 71.34.710, if the individual is a minor thirteen years of age or older.

(f) If the individual was detained, a petition for initial detention must include the following:

(i) The circumstances under which the person's condition was made known.

(ii) Evidence, as a result of the DMHP's personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that the individual is gravely disabled.

(iii) Evidence that the individual will not voluntarily seek appropriate treatment.

(iv) Consideration of all reasonably available information from credible witnesses, to include family members,

landlords, neighbors, or others with significant contact and history of involvement with the individual, and records, as required by RCW 71.05.212.

(v) Consideration of the individual's history of judicially required, or administratively ordered, anti-psychotic medications while in confinement when conducting an evaluation of an offender under RCW 72.09.370.

(g) Documentation that the individual, or the individual's guardian or conservator, received a copy of the following:

- (i) Notice of detention;
- (ii) Notice of rights; and
- (iii) Initial petition.

[Statutory Authority: RCW 43.20A.550, 74.04.050, 74.08.090 and chapters 70.02, 71.24 RCW, WSR 14-18-014, § 388-877A-0280, filed 8/22/14, effective 9/22/14. Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0280, filed 5/31/13, effective 7/1/13.]

SECTION THREE—RECOVERY SUPPORT SERVICES REQUIRING PROGRAM-SPECIFIC CERTIFICATION

WAC 388-877A-0300 Recovery support services requiring program-specific certification—General. The rules in this section apply to behavioral health agencies that provide one or more recovery support services that require program-specific certification by the department's division of behavioral health and recovery. The definitions in WAC 388-877-0200 also apply to these services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Recovery support services are intended to promote an individual's socialization, recovery, self-advocacy, development of natural support, and maintenance of community living skills.

(2) Recovery support services requiring program-specific certification include:

- (a) Employment services (see WAC 388-877A-0330);
- (b) Peer support services (see WAC 388-877A-0340);
- (c) Wraparound facilitation services (see WAC 388-877A-0350);
- (d) Medication support services (see WAC 388-877A-0360); and
- (e) Applied behavior analysis (ABA) services (see WAC 388-877A-0370).

(3) An agency providing any recovery support service requiring program-specific certification must:

- (a) Be licensed by the department as a behavioral health agency.
- (b) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC.
- (c) Have policies and procedures to support and implement the:

- (i) General requirements in chapter 388-877 WAC; and
- (ii) Applicable program-specific requirements.

(4) An agency that provides any recovery support service requiring program-specific certification may operate through

an agreement with a behavioral health agency certified for an outpatient mental health service listed in WAC 388-877A-0100(2). The agreement must specify the responsibility for initial assessments, the determination of appropriate services, individual service planning, and the documentation of these requirements.

(5) When providing any recovery support service requiring program-specific certification, an agency must:

(a) Have an assessment process to determine the appropriateness of the agency's services, based on the individual's needs and goals.

(b) Refer an individual to a more intensive level of care when appropriate.

(c) With the consent of the individual, include the individual's family members, significant others, and other relevant treatment providers, as necessary to provide support to the individual.

[Statutory Authority: RCW 43.20A.550, 74.04.050, 74.08.090 and chapters 70.02, 71.24 RCW, WSR 14-18-014, § 388-877A-0300, filed 8/22/14, effective 9/22/14. Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0300, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0310 Recovery support services requiring program-specific certification—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing any recovery support service that requires program-specific certification must ensure:

(1) Each staff member working directly with an individual receiving any recovery support service in WAC 388-877A-0330 through 388-877A-0360 has annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.939; and

(2) The staff member's personnel record documents the training.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0310, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0320 Recovery support services requiring program-specific certification—Clinical record content and documentation. In addition to meeting the general clinical record content requirements in WAC 388-877-0640, an agency providing any recovery support service that requires program-specific certification must maintain an individual's clinical record that contains:

(1) Documentation of the following in a timely manner and before any subsequent scheduled appointments of the same type of service encounter occur:

- (a) The name of the agency or other sources through which the individual was referred;
- (b) A brief summary of each service encounter, including the date, time, and duration of the encounter; and
- (c) Names of participant(s), including the name of the individual who provided the service.

(2) Any information or copies of documents shared by, or with, a behavioral health agency certified for outpatient mental health services.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0320, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0330 Recovery support services requiring program-specific certification—Employment services. Employment services are a recovery support service that requires program-specific certification by the department's division of behavioral health and recovery. These services assist in training, job search, and placement services in order to help individuals find competitive jobs in their local communities.

(1) An agency providing employment services must have knowledge of and provide individuals access to employment and education opportunities by coordinating efforts with one or more entities that provide other rehabilitation and employment services, such as:

- (a) The department's division of vocational rehabilitation;
- (b) Community, trade, and technical colleges;
- (c) The business community;
- (d) WorkSource, Washington state's official site for online employment services;
- (e) Washington state department of employment security; and
- (f) Organizations providing job placement within the community.

(2) An agency providing employment services must:

- (a) Ensure all staff members providing direct services for employment are knowledgeable and familiar with services provided by the department's division of vocational rehabilitation.
- (b) Conduct and document a vocational assessment in partnership with the individual that includes work history, skills, training, education, and personal career goals.
- (c) Assist the individual to create an individualized job and/or career development plan that focuses on the individual's strengths and skills.
- (d) Assist the individual to locate employment opportunities that are consistent with the individual's skills, goals, and interests.

(e) Document any outreach, job coaching, and support at the individual's worksite, when requested by the individual and/or the individual's employer.

(f) If the employer makes a request, provide information regarding the requirements of reasonable accommodations, consistent with the Americans with Disabilities Act (ADA) of 1990, and the Washington state anti-discrimination law.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0330, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0340 Recovery support services requiring program-specific certification—Peer support services. Peer support services are a recovery support service that requires program-specific certification by the department's division of behavioral health and recovery.

(1) Peer support services provide a wide range of activities to assist an individual in exercising control over their own life and recovery process through:

- (a) Developing self-advocacy and natural supports;

- (b) Maintenance of community living skills;
- (c) Promoting socialization; and
- (d) The practice of peer counselors sharing their own life experiences related to mental illness to build alliances that enhance the individual's ability to function.

(2) An agency providing peer support services must ensure peer support counselors;

- (a) Meet the requirements of WAC 388-865-0107.

(b) Provide peer support services:

- (i) Under the supervision of a mental health professional; and
- (ii) Within the scope of the peer counselor's training and department of health credential.
- (c) Receive annual training relevant to their unique working environment.

(3) An agency providing peer support services must document the frequency, duration, and expected outcome of all peer support services in the individual service plan.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0340, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0350 Recovery support services requiring program-specific certification—Wraparound facilitation services. Wraparound facilitation services are a recovery support service that requires program-specific certification by the department's division of behavioral health and recovery. These services address the complex emotional, behavior, and social issues of an identified individual twenty years of age or younger, and the individual's family.

(1) Wraparound facilitation services are:

- (a) Provided to an individual who requires the services of a mental health provider and one or more child serving systems;
- (b) Focused and driven by the needs of the identified family and the family's support community; and
- (c) Provided in partnership with the individual, the individual's family, and the individual's mental health provider.

(2) An agency providing wraparound facilitation services must employ or contract with:

- (a) A mental health professional (MHP) who is responsible for oversight of the wraparound facilitation services.
- (b) A facilitator who has completed department-approved wraparound facilitation training and:
 - (i) Has a master's degree with at least one year of experience working in social services;
 - (ii) Has a bachelor's degree with at least two years of experience working in social services; or
 - (iii) Is an individual with lived experience. The experience must be documented in the personnel file.
- (c) A staff member certified to provide a child and adolescent needs and strengths (CANS) assessment.

(3) In addition to the staff requirements in (2) of this subsection, an agency must ensure the following individuals are available to assist in the planning and provision of wraparound facilitation services, as needed:

- (a) An employee or volunteer youth partner, actively involved in defining the agency's services.
- (b) An employee or volunteer family partner, actively involved in defining the agency's services.

(4) All wraparound facilitation services:

(a) Must include the identified individual, the individual's family, and the individual's mental health provider; and

(b) May include additional support partners as team members, including but not limited to the following:

(i) **Natural supports.** Natural supports include community members, friends, and extended family members identified by the individual and/or the individual's family to be active participants in the individual's support network.

(ii) **System supports.** System supports are representatives from systems that currently offer support to the identified individual or that offer support services to the individual's adult care giver, which directly affects the individual.

(iii) **Peer supports.** Peer supports are individuals who have personally and actively participated in wraparound facilitation services and who offer support to families currently working with the wraparound teams.

(5) An agency must document the following:

(a) The development of a wraparound plan that:

(i) Includes:

(A) A complete list of participants and their contact information;

(B) A list of next steps or follow-up information from the initial meeting; and

(C) The schedule of child and family team (CFT) meetings.

(ii) Describes the individual's and the individual's family's vision for the future stated in their own language.

(iii) Reflects the family's prioritization of needs and goals and addresses the needs as identified in the CANS screen.

(iv) Is integrated with the person's individual service plan (see WAC 388-877-0620 and 388-877A-0135).

(v) Identifies the functional strengths of the individual and the individual's family that can be used to help meet the identified needs.

(vi) Assigns responsibility to CFT members for each strategy/intervention or task, and establishes timelines for implementation.

(vii) Identifies immediate safety needs and a safety/crisis plan.

(viii) Assists the individual and the individual's family in using their support network.

(ix) Is signed by all CFT members, including the individual and the individual's parent or if applicable, legal guardian.

(b) Coordination with any other involved systems and services and/or supports, including sharing the wraparound plan and any revisions with all members of the team.

(c) The result of the initial and subsequent CANS screenings and assessments.

(d) The review of the wraparound plan during each CFT meeting and any revisions made to the plan to address the changing needs and progress of the identified individual and the individual's family.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0350, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0360 Recovery support services requiring program-specific certification—Medication support services. Medication support services are recovery

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support services that require program-specific certification. These services are performed for the purpose of facilitating individuals' medication adherence.

(1) Medication support services are certified by the department's division of behavioral health and recovery only when the agency:

(a) Is also certified to provide program-specific psychiatric medication services (see WAC 388-877A-0180); or

(b) Has an agreement with another behavioral health agency certified to provide psychiatric medication services. The agreement must specify the responsibility for medication support services, and the documentation of the requirements.

(2) Medication support services occur face-to-face and:

(a) Include one-on-one cueing, observing, and encouraging an individual to take medication as prescribed.

(b) Include reporting any pertinent information related to the individual's adherence to the medication back to the agency that is providing psychiatric medication services.

(c) May take place at any location and for as long as it is clinically necessary.

(d) Are provided to any individual who:

(i) Has a history of low medication adherence;

(ii) Is newly on medication; or

(iii) Is new to the specific medication prescribed.

(3) An agency providing medication support services must:

(a) Ensure services are provided by or under the supervision of a mental health professional.

(b) Ensure that the staff positions responsible for providing medication monitoring and/or delivery services are clearly identified in the agency's medication support services policy.

(c) Have appropriate policies and procedures in place when the agency providing medication support services maintains and/or delivers medication to the individual. The policies and procedures must address:

(i) The maintenance of a medication log documenting medications that are received, prescribed, and dispensed.

(ii) Reasonable precautions that need to be taken when transporting medications to the intended individual and to assure staff safety during the transportation.

(iii) The prevention of contamination of medication during delivery, if delivery is provided.

(d) Ensure that all medications kept by staff in the agency are safely and securely stored as follows:

(i) Medication must be maintained in locked cabinets within a well-illuminated, locked, and properly ventilated room.

(ii) Medication kept for individuals on medication administration or self-administration programs must be clearly labeled and stored separately from medication samples kept on site.

(iii) Medication marked "for external use only" must be stored separately from oral or injectable medications.

(iv) Refrigerated food or beverages used in the administration of medications must be kept separate from the refrigerated medications by the use of trays or other designated containers.

(v) Syringes and sharp objects must be properly stored and disposed of safely.

(vi) Refrigerated medications must be maintained at the required temperatures.

(e) Ensure that outdated medications are disposed of in accordance with the rules of the state board of pharmacy, and ensure that no outdated medications are retained.

(f) Ensure that the individual's clinical record contains:

(i) The individual service plan, including documentation of medication support services.

(ii) Documentation of observations on the individual's behavior indicating the effects, interactions, and side effects of the prescribed medication, as necessary.

(iii) Documentation of regular reviews of the individual's adherence to the medication support plan as reflected in the individual service plan.

(iv) Documentation of reports to the prescriber about medication adherence and/or side effects.

[Statutory Authority: Chapters 70.02, 70.96A, 71.05, 71.24, 71.34, 74.50 RCW, RCW 74.08.090, 43.20A.890, and 42 C.F.R. Part 8. WSR 13-12-053, § 388-877A-0360, filed 5/31/13, effective 7/1/13.]

WAC 388-877A-0370 Recovery support services requiring program-specific certification—Applied behavior analysis (ABA) services. Applied behavior analysis (ABA) services are a recovery support service that requires program-specific certification by the department's division of behavioral health and recovery.

(1) ABA services:

(a) Assist children and their families to improve the core symptoms associated with autism spectrum disorders or other developmental disabilities for which ABA services have been determined to be medically necessary; and

(b) Support learning, skill development, and assistance in any one or more of the following areas or domains:

- (i) Social;
- (ii) Behavior;
- (iii) Adaptive;
- (iv) Motor;
- (v) Vocational; or
- (vi) Cognitive.

(2) An agency providing ABA services must meet the:

(a) General requirements in chapter 388-877 WAC for behavioral health services administrative requirements;

(b) General requirements in WAC 388-877A-0300 for recovery support services requiring program-specific certification;

(c) Specific agency staff requirements in WAC 388-877A-0310; and

(d) Specific clinical record content and documentation requirements in WAC 388-877-640 and 388-877A-0320.

(3) The health care authority (HCA) administers rules in chapter 182-531 WAC for ABA services requirements. The rules in chapter 182-531 WAC include:

- (a) Definitions that apply to ABA services;
- (b) Program and clinical eligibility requirements;
- (c) Prior authorization and recertification requirements;
- (d) Specific ABA provider requirements;
- (e) Covered and noncovered services;
- (f) Billing requirements; and
- (g) Requirements for:
 - (i) Referrals to and assessments by Centers of Excellence (COE) for evaluations and orders; and

(ii) ABA assessments and individualized ABA therapy treatment plans.

(4) The ABA therapy treatment plan must:

(a) Be developed and maintained by a lead behavior analysis therapist (LBAT) (see (5) of this section);

(b) Identify the services to be delivered by the LBAT and the therapy assistant, if the agency employs a therapy assistant (see (6) and (7) of this section);

(c) Be comprehensive and document treatment being provided by other health care professionals; and

(d) Document how all treatment will be coordinated, as applicable, with other members of the health care team.

(5) An agency must employ a lead behavior analysis therapist (LBAT).

(a) To qualify as an LBAT, an individual must meet the professional requirements in chapter 182-531 WAC.

(b) The agency must ensure the LBAT meets other applicable requirements in chapter 182-531 WAC.

(6) An agency may choose to employ a therapy assistant.

(a) To qualify as a therapy assistant, an individual must meet the professional requirements in chapter 182-531 WAC.

(b) The agency must ensure the therapy assistant meets other applicable requirements in chapter 182-531 WAC.

(7) If the agency employs a therapy assistant(s), the agency must ensure the LBAT:

(a) Supervises the therapy assistant:

(i) For a minimum of five percent of the total direct care provided by the therapy assistant per week (for example, one hour of direct supervision per twenty hours of direct care); and

(ii) In accordance with agency policies and procedures.

(b) Meets the requirements in this section;

(c) Completes a review of an individual's ABA therapy treatment plan with the therapy assistant before services are provided;

(d) Assures the therapy assistant delivers services according to the individual's ABA therapy treatment plan; and

(e) Meets at least every two weeks with the therapy assistant and documents review of the individual's progress and/or response to the treatment, and makes changes to the ABA therapy treatment plan as indicated by the individual's progress and/or response.

(8) To maintain department program-specific certification to provide ABA services, an agency must continue to ensure the requirements in this section are met.

[Statutory Authority: RCW 43.20A.550, 74.04.050, 74.08.090, chapters 70.02, 71.24 RCW, and Washington Autism Alliance and Advocacy, et al. v. Douglas Porter, U.S. District Court, Western District of Washington, Case No. 2:12-cv-00742-RAJ, § 388-877A-0370, filed 3/4/14, effective 4/4/14.]

WAC 388-877A-0400 How individuals can express concern about their rights, services, or treatment. (1) An individual applying for, eligible for, or receiving mental health services authorized by a regional support network (RSN), the individual's representative, or the individual's legal guardian may access the RSN's grievance system to express concern about their rights, services, or treatment. The grievance system includes:

(a) A grievance process;

- (b) An appeal process; and
- (c) Access to administrative hearings.

(2) Before requesting an administrative hearing, the individual must exhaust:

(a) The grievance process, subject to the rules in WAC 388-877A-0420; or

(b) The appeal process, subject to the rules in WAC 388-877A-0440.

(3) Individuals may also use the free and confidential ombuds services through the RSN that contracts with the behavioral health agency in which they receive mental health services. Ombuds services are provided independent of RSNs and agency services providers, and are offered to individuals at any time to help them with resolving issues or problems at the lowest possible level during the grievance, appeal, or administrative hearing process.

(4) See WAC 388-865-0250 for more information on ombuds services.

[Statutory Authority: Chapter 49.60 RCW, RCW 71.05.560, 71.24.035 (5)(c), 71.34.380, and 42 C.F.R. § 438.400. WSR 15-14-058, § 388-877A-0400, filed 6/25/15, effective 7/26/15.]

WAC 388-877A-0410 Grievance system—Definitions. The terms and definitions in this section and WAC 388-877-0200 apply to the grievance system rules.

(1) "Action" means, in the case of a regional support network (RSN):

(a) The denial or limited authorization of a requested service, including the type or level of service;

(b) The reduction, suspension, or termination of a previously authorized service;

(c) The denial in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by the state; or

(e) The failure of an RSN or its contracted behavioral health agency to act within the grievance system timeframes as provided in WAC 388-877A-0420 through 388-877A-0450.

(2) "Administrative hearing" means a proceeding before an administrative law judge that gives an individual an opportunity to be heard in disputes about DSHS programs and services.

(3) "Appeal" means an oral or written request by an individual, or with the individual's written permission, the individual's representative, for the regional support network (RSN) to review an "action," as defined in this section. See also "expedited appeal."

(4) "Appeal process" is one of the processes included in the grievance system that allows an individual to appeal an action made by the regional support network (RSN) and communicated on a "notice of action."

(5) "Expedited appeal process" allows an individual, in certain circumstances, to file an appeal that will be reviewed by the regional support network (RSN) more quickly than a standard appeal.

(6) "Grievance" means an expression of dissatisfaction about any matter other than an action.

(7) "Grievance process" is one of the processes included in the grievance system that allows an individual to express concern or dissatisfaction about a mental health service.

(8) "Grievance system" means the processes through a regional support network (RSN) in which an individual applying for, eligible for, or receiving mental health services may express dissatisfaction about services. The grievance system must be established by the RSN, must meet the requirements of 42 CFR 438 Subpart F, and include:

(a) A grievance process;

(b) An appeal process; and

(c) Access to the department's administrative hearing process.

(9) "Individual" means a person who applies for, is eligible for, or receives regional support network (RSN)-authorized mental health services from an agency licensed by the department as a behavioral health agency. For the purposes of accessing the grievance system, the definition of individual also includes the following if another person is acting on the individual's behalf:

(a) In the case of a minor, the individual's parent or, if applicable, the individual's custodial parent;

(b) The individual's legal guardian; or

(c) The individual's representative if the individual gives written permission.

(10) "Notice of action" is the written notice a regional support network (RSN) provides to an individual and, if applicable, the individual's legal representative, to communicate an "action."

(11) "Regional support network (RSN)" means a county authority or group of county authorities or other entity recognized by the secretary in contract in a defined region. RSNs contract with behavioral health agencies to provide services.

[Statutory Authority: Chapter 49.60 RCW, RCW 71.05.560, 71.24.035 (5)(c), 71.34.380, and 42 C.F.R. § 438.400. WSR 15-14-058, § 388-877A-0410, filed 6/25/15, effective 7/26/15.]

WAC 388-877A-0420 Grievance process. (1) The grievance process is used by an individual or their representative to express dissatisfaction in person, orally, or in writing about any matter other than an action to:

(a) The behavioral health agency providing the mental health services; or

(b) The regional support network (RSN).

(2) The ombuds serving the behavioral health agency or RSN may assist the individual in resolving the grievance at the lowest possible level.

(3) Grievances are subject to the rules in this section, WAC 388-877A-0400, and 388-877A-0430 through 388-877A-0460. An individual may choose to file a grievance with the behavioral health agency that provides the mental health services or with the RSN, subject to the following:

(a) **Filing a grievance with a behavioral health agency.** If the individual first files a grievance with the behavioral health agency and the individual is not satisfied with the agency's written decision on the grievance, or if the individual does not receive a copy of that decision from the agency within the time required under subsection (5) of this section, the individual may then choose to file the grievance with the RSN. If the individual is not satisfied with the RSN's written decision on the grievance, or if the individual does not receive a copy of the decision from the RSN within the time required under subsection (5) of this section, the individual can request an administrative hearing to have the griev-

ance reviewed and the RSN's decision or failure to make a timely decision about it.

(b) **Filing a grievance with an RSN.** If the individual first files a grievance with the RSN (and not the agency), and the individual either is not satisfied with the RSN's written decision on the grievance, or does not receive a copy of the decision within the time required under subsection (5) of this section, the individual can request an administrative hearing to have the grievance reviewed and the RSN's decision or failure to make a timely decision about it. Once an individual gets a decision on a grievance from an RSN, the individual cannot file the same grievance with the behavioral health agency, even if that agency or its staff member(s) is the subject of the grievance.

(4) An individual may also request an administrative hearing if a written notice regarding the grievance was not received within the timeframes established in subsection (5) of this section.

(5) When an individual files a grievance, the behavioral health agency or RSN receiving the grievance must:

(a) Acknowledge the receipt of the grievance in writing within five business days;

(b) Investigate the grievance;

(c) Apply the rules in subsection (6) of this section; and

(d) Send the individual who filed the grievance a written notice describing the decision within ninety calendar days from the date the grievance was filed.

(6) The behavioral health agency or RSN receiving the grievance must ensure all of the following:

(a) Other people, if the individual chooses, are allowed to participate in the grievance process.

(b) The individual's right to have currently authorized mental health services continued pending resolution of the grievance and, if applicable, through subsequent steps of the grievance system.

(c) That a grievance is resolved even if the individual is no longer receiving mental health services.

(d) That the persons who make decisions on a grievance:

(i) Were not involved in any previous level of review or decision making; and

(ii) Are mental health professionals who have appropriate clinical expertise if the grievance involves clinical issues.

(e) That the individual and, if applicable, the individual's representative, receive a written notice containing the decision within ninety days from the date a grievance is received by the agency or RSN. This timeframe can be extended up to an additional fourteen days:

(i) If requested by the individual or the individual's representative; or

(ii) By the agency or RSN when additional information is needed and the RSN can demonstrate that it needs additional information and that the added time is in the individual's interest.

(f) That the written notice includes:

(i) The decision on the grievance;

(ii) The reason for the decision; and

(iii) The right to request an administrative hearing and the required timeframe to request the hearing.

(g) That full records of all grievances and materials received or compiled in the course of processing and attempting to resolve the grievance are maintained and:

(i) Kept for six years after the completion of the grievance process;

(ii) Made available to the department upon request as part of the state quality strategy;

(iii) Kept in confidential files separate from the individual's clinical record; and

(iv) Not disclosed without the individual's written permission, except to the department or as necessary to resolve the grievance.

[Statutory Authority: Chapter 49.60 RCW, RCW 71.05.560, 71.24.035 (5)(c), 71.34.380, and 42 C.F.R. § 438.400. WSR 15-14-058, § 388-877A-0420, filed 6/25/15, effective 7/26/15.]

WAC 388-877A-0430 Notice of action. The regional support network's (RSN's) written notice of action provided to an individual must be in writing, be in the individual's primary language, be easily understood and, at a minimum, explain:

(1) The action the RSN or its contractor (behavioral health agency) has taken or intends to take;

(2) The reason for the action and a citation of the rule(s) being implemented;

(3) The individual's right to file an appeal with the RSN and the required timeframes if the individual does not agree with the decision or action;

(4) The circumstances under which an expedited resolution is available and how to request it; and

(5) The individual's right to receive mental health services while an appeal is pending, how to make the request, and that the individual may be held liable for the cost of services received while the appeal is pending if the appeal decision upholds the decision or action.

[Statutory Authority: Chapter 49.60 RCW, RCW 71.05.560, 71.24.035 (5)(c), 71.34.380, and 42 C.F.R. § 438.400. WSR 15-14-058, § 388-877A-0430, filed 6/25/15, effective 7/26/15.]

WAC 388-877A-0440 Appeal process. (1) The appeal process is used by an individual to ask the regional support network (RSN) to review an action that the RSN has communicated to the individual on a written notice of action (see WAC 388-877A-0430). An individual's representative may appeal an action with the individual's written consent. If a written notice of action was not received, an appeal may still be filed.

(2) The individual requesting review of an action must file an appeal and receive a notice of the resolution from the RSN before requesting an administrative hearing.

(3) The appeal process can be:

(a) Standard as described in subsection (6) of this section; or

(b) Expedited if the criteria in subsection (7) of this section are met.

(4) The appeal process must:

(a) Provide an individual a reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing. The RSN must inform the individual of the limited time available.

(b) Provide the individual opportunity, before and during the appeal process, to examine the individual's clinical record, including medical records and any other documents and records considered during the appeal process.

- (c) Include as parties to the appeal as applicable:
 - (i) The individual.
 - (ii) The individual's representative.
 - (iii) The legal representative of a deceased individual's estate.
- (5) The RSN must ensure that the persons who make decisions on an appeal:
 - (a) Were not involved in any previous level of review or decision making; and
 - (b) Are mental health professionals who have appropriate clinical expertise.
- (6) **Standard appeal process.** The standard appeal process includes the following:
 - (a) **Standard appeals for actions communicated on a notice of action—continued services not requested.** An individual who disagrees with a decision or action communicated on a notice of action may file an appeal orally or in writing. All of the following apply:
 - (i) The individual must file the appeal within ninety calendar days from the date on the notice of action.
 - (ii) The RSN must confirm receipt of the appeal in writing within five business days.
 - (iii) The RSN must send the individual a written notice of the resolution within forty-five calendar days of receiving the appeal. This timeframe may be extended up to fourteen additional days if the individual requests an extension or the RSN can demonstrate that it needs additional information and that the added time is in the individual's interest. The written notice of the resolution must include:
 - (A) The RSN's decision;
 - (B) The reason for the decision; and
 - (C) The right to request an administrative hearing if the individual disagrees with the decision. The hearing must be requested within ninety calendar days from the date on the notice.
 - (b) **Standard appeals for termination, suspension, or reduction of previously authorized services—continued services requested.** An individual receiving a notice of action from the RSN that terminates, suspends, or reduces previously authorized services may file an appeal and request continuation of those services pending the RSN's decision on the appeal. All of the following apply:
 - (i) The individual must:
 - (A) File the appeal with the RSN on or before the later of the following:
 - (I) Within ten calendar days of the date on the notice of action; or
 - (II) The intended effective date of the RSN's proposed action.
 - (B) Request continuation of services.
 - (ii) The RSN must:
 - (A) Confirm receipt of the appeal and the request for continued services with the individual orally or in writing;
 - (B) Send a notice in writing that follows up on any oral confirmation made; and
 - (C) Include in the notice that if the appeal decision is not in favor of the individual, the RSN may recover the cost of the mental health services provided pending the RSN's decision.
 - (iii) The RSN's written notice of the resolution must contain:

- (A) The RSN's decision on the appeal;
- (B) The reason for the decision; and
- (C) The right to request an administrative hearing if the individual disagrees with the decision and include the following timeframes:
 - (I) Within ten calendar days from the date on the notice of the resolution if the individual is asking that services be continued pending the outcome of the hearing.
 - (II) Within ninety calendar days from the date on the notice of the resolution if the individual is not asking for continued services.
- (7) **Expedited appeal process.** If an individual or the individual's mental health provider feels that the time taken for a standard resolution of an appeal could seriously jeopardize the individual's life or health and ability to attain, maintain, or regain maximum function, an expedited appeal and resolution of the appeal can be requested. If the RSN denies the request for the expedited appeal and resolution of an appeal, it must transfer the appeal to the timeframe for standard resolutions under subsection (6) of this section, and make reasonable efforts to give the individual prompt oral notice of the denial and follow up within two calendar days with a written notice.
 - (a) Both of the following applies to expedited appeal requests:
 - (i) The action taken on the notice of action is for denial of a requested service, termination, suspension, or reduction of previously authorized mental health services; and
 - (ii) The appeal must be filed with the RSN, either orally or in writing, within:
 - (A) Ten calendar days from the date on the RSN's written notice of action that communicated the action if the individual is requesting continued benefits; or
 - (B) Twenty calendar days from the date on the RSN's written notice of action that communicated the action if the individual is not requesting continued benefits.
 - (b) The RSN must:
 - (i) Confirm receipt of the request for an expedited appeal in person or by telephone.
 - (ii) Send the individual a written notice of the resolution within three business days of receiving the request for an expedited appeal.
 - (c) The RSN may extend the timeframes up to fourteen additional days if the individual requests an extension or the RSN can demonstrate it needs additional information and that the added time is in the individual's interest.
- (8) **Duration of continued services during the appeal process.** When an individual has requested continued mental health services pending the outcome of the appeal process and the criteria in this section have been met, the RSN ensures the services are continued until one of the following occurs:
 - (a) The individual withdraws the appeal.
 - (b) Ten days pass from the date on the notice of action and both of the following occur:
 - (i) The RSN provides a written notice of the resolution that contains a decision that is not in favor of the individual; and
 - (ii) The individual, within the ten-day timeframe, has not requested an administrative hearing with continuation of services.

(c) The time period of a previously authorized service has expired.

(d) A mental health treatment service limit of a previously authorized service has been fulfilled.

(9) **Recovery of the cost of mental health services in adverse decisions of appeals.** If the final written notice of the resolution of the appeal is not in favor of the individual, the RSN may recover the cost of the mental health services furnished to the individual while the appeal was pending to the extent that they were provided solely because of the requirements of this section.

(10) The RSN must maintain full records of all appeals and ensure an individual's records are:

(a) Kept for six years after the completion of the appeal process;

(b) Made available to the department upon request as part of the state quality strategy;

(c) Kept in confidential files separate from the individual's clinical record; and

(d) Not disclosed without the individual's written permission, except to the department or as necessary to resolve the appeal.

[Statutory Authority: Chapter 49.60 RCW, RCW 71.05.560, 71.24.035 (5)(c), 71.34.380, and 42 C.F.R. § 438.400. WSR 15-14-058, § 388-877A-0440, filed 6/25/15, effective 7/26/15.]

WAC 388-877A-0450 Administrative hearings. (1)

An administrative hearing (also known as "fair hearing") is a proceeding before an administrative law judge (ALJ) that gives an individual, as defined in WAC 388-877A-0410, an opportunity to be heard in disputes about a mental health program or service.

(2) An individual must first exhaust the grievance process described in WAC 388-877A-0420, or the appeal process described in WAC 388-877A-0440 before requesting an administrative hearing.

(3) An individual requesting an administrative hearing must do so within the following timeframes:

(a) If continued services are not requested, a hearing must be requested within ninety calendar days from:

(i) The date on the written notice from the agency or RSN at the end of the grievance process; or

(ii) The date on the written notice of the resolution received from the RSN at the end of the appeal process.

(b) If continued services are requested pending the outcome of the administrative hearing, all of the following applies:

(i) The decision on a notice of action must be for termination, suspension, or reduction of the individual's mental health services and the individual appealed this decision;

(ii) The individual received a written notification of the resolution of the appeal from the RSN that upholds the decision on the notice of action; and

(iii) The individual requests an administrative hearing and continued mental health services within ten calendar days of the date on the written notification of the resolution.

(4) If an individual requests an expedited administrative hearing, the expedited hearing must be requested within ten calendar days from the date on the notice of the resolution. Subsection (3)(b) of this section applies if continued mental health services are requested.

(6/25/15)

(5) If a written notice was not received under subsection (3) or (4) of this section, the individual may still request an administrative hearing.

(6) When the criteria in this section are met for continued services, the RSN continues the individual's mental health treatment services during the administrative hearing process until one of the following occurs:

(a) The individual withdraws the hearing request.

(b) The administrative law judge issues a hearing decision adverse to the individual.

(c) The period covered by the original authorization of mental health services has expired.

(7) If the administrative hearing decision is not in favor of the individual, the RSN may recover the cost of the mental health services furnished to the individual while the hearing was pending to the extent that they were provided solely because of the requirements of this section.

(8) For purposes of this chapter, hearings include administrative hearings, adjudicative proceedings, and any other similar term referenced under chapter 34.05 RCW, the Administrative Procedure Act, Title 388 WAC, chapter 10-08 WAC, or other law. Chapters 34.05 RCW and 388-02 WAC govern cases where an individual has an issue involving a service that is not funded by medicaid. Chapters 34.05 RCW and 182-526 WAC govern cases where an individual has an issue involving a service that is funded by medicaid.

[Statutory Authority: Chapter 49.60 RCW, RCW 71.05.560, 71.24.035 (5)(c), 71.34.380, and 42 C.F.R. § 438.400. WSR 15-14-058, § 388-877A-0450, filed 6/25/15, effective 7/26/15.]

WAC 388-877A-0460 Individual rights specific to medicaid recipients. (1) Medicaid recipients have general individual rights and medicaid-specific rights when applying for, eligible for, or receiving mental health services authorized by a regional support network (RSN).

(a) General rights that apply to all individuals, regardless of whether an individual is or is not a medicaid recipient, include:

(i) All applicable statutory and constitutional rights;

(ii) The participant rights provided under WAC 388-877-0600; and

(iii) Applicable necessary supplemental accommodation services in chapter 388-472 WAC.

(b) Medicaid-specific rights that apply specifically to medicaid recipients include the following. You have the right to:

(i) Receive medically necessary mental health services, consistent with the Access to Care Standards adopted by the department in its managed care waiver with the federal government.

(ii) Receive the name, address, telephone number, and any languages offered other than English, of mental health providers in your RSN.

(iii) Receive information about the structure and operation of the RSN.

(iv) Receive emergency or urgent care or crisis services.

(v) Receive post-stabilization services after you receive emergency or urgent care or crisis services that result in admittance to a hospital.

(vi) Receive age and culturally appropriate services.

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(vii) Be provided a certified interpreter and translated material at no cost to you.

(viii) Receive information you request and help in the language or format of your choice.

(ix) Have available treatment options and alternatives explained to you.

(x) Refuse any proposed treatment.

(xi) Receive care that does not discriminate against you.

(xii) Be free of any sexual exploitation or harassment.

(xiii) Receive an explanation of all medications prescribed and possible side effects.

(xiv) Make a mental health advance directive that states your choices and preferences for mental health care.

(xv) Receive information about medical advance directives.

(xvi) Choose a mental health care provider for yourself and your child, if your child is under thirteen years of age.

(xvii) Change mental health care providers during the first ninety days of treatment, or first twelve months of being approved for services.

(xviii) Request and receive a copy of your medical or mental health records, and be told the cost for copying.

(xix) Be free from retaliation.

(xx) Request and receive policies and procedures of the RSN and behavioral health agency as they relate to your rights.

(xxi) Receive the amount and duration of services you need.

(xxii) Receive services in a barrier-free (accessible) location.

(xxiii) Medically necessary services in accordance with the Early Periodic Screen, Diagnosis and Treatment (EPSDT) under WAC 182-534-0100, if you are twenty years of age or younger.

(xxiv) Receive enrollment notices, informational materials, materials related to grievances, appeals, and administrative hearings, and instructional materials relating to services provided by the regional support network (RSN), in an easily understood format and non-English language that you prefer.

(xxv) Be treated with dignity, privacy and respect, and to receive treatment options and alternatives in a manner that is appropriate to your condition.

(xxvi) Participate in treatment decisions, including the right to refuse treatment.

(xxvii) Be free from seclusion or restraint.

(xxviii) A second opinion from a qualified professional within your RSN area at no cost, or to have one arranged outside the network at no cost to you, as provided in 42 C.F.R. § 438.206(3).

(xxix) Receive medically necessary mental health services outside of the RSN if those services cannot be provided adequately and timely within the RSN.

(xxx) File a grievance with the RSN if you are not satisfied with a service.

(xxxii) Receive a notice of action so that you may appeal any decision by the RSN that denies or limits authorization of a requested service, that reduces, suspends, or terminates a previously authorized service; or that denies payment for a service, in whole or in part.

(xxxii) File an appeal if the RSN fails to provide services in a timely manner as defined by the state, or act within the timeframes provided in 42 CFR § 438.408(b).

(xxxiii) Request an administrative (fair) hearing if your grievance or appeal is not resolved in your favor.

(xxxiv) Services by an ombuds to help you in filing a grievance or appeal, or to request an administrative hearing.

(2) A behavioral health agency licensed by the division of behavioral health and recovery (DBHR) and certified by DBHR to provide mental health services must ensure the medicaid rights described in (1)(b) of this section are:

(a) Provided in writing to each medicaid recipient, and if appropriate, the recipient's legal representative, on or before admission;

(b) Upon request, given to the medicaid recipient in an alternative format or language appropriate to the recipient and, if appropriate, the recipient's legal representative;

(c) Translated to the most commonly used languages in the agency's service area; and

(d) Posted in public areas.

[Statutory Authority: Chapter 49.60 RCW, RCW 71.05.560, 71.24.035 (5)(c), 71.34.380, and 42 C.F.R. § 438.400. WSR 15-14-058, § 388-877A-0460, filed 6/25/15, effective 7/26/15.]