~~CHAPTER 2 - REGULATIONS PERTAINING TO THE DEPARTMENT OF PUBLIC INSTITUTIONS~~

~~001 ADMINISTRATION. The Director of the Division or such officer of the Department as he or she may designate shall:~~

~~001.01 Provide a comprehensive and integrated statewide plan for mental health programs.~~

~~001.02 Allocate funds and develop guidelines for expenditure of funds.~~

~~001.03 Consult with the State Mental Health Advisory Committee concerning the statewide plan, minimum standards, equitable provision of services, program priorities, research, fee schedules and general fiscal analysis of mental health services.~~

~~001.04 Determine whether the Regional Governing Boards are in compliance with Regulations pertaining to Regional Governing Boards (204 NAC 3), and Finance and Administration (204 NAC 4).~~

~~001.05 Determine whether providers funded by the Department are providing services in compliance with regulations pertaining to finance and administration (204 NAC 4) and program certification (204 NAC 5).~~

~~001.06 Coordinate the activities of the Department with federal, other state and private agencies involved directly or indirectly in the delivery of mental health programs.~~

~~002 CONTRACTS. The Director shall contract for the delivery of mental health programs.~~

~~002.01 The Director shall negotiate and enter into annual contracts with the Regional Governing Boards for mental health programs to be provided.~~

~~002.02 The Director may also negotiate and enter into contracts with organizations and/or individuals for mental health programs not provided through Regional Governing Boards. The Department shall request Regional Governing Board review and comment on proposals for directly contracted programs in its region.~~

~~002.03 The Director shall contract for community mental health programs only with those providers certified by the Department as provided for in 204 NAC 5.~~

~~002.03A All organizations and individuals receiving funds from the Department under a contract with the Department or through a Regional Governing Board shall be certified by the Department to provide the program(s) specified in the contract.~~

~~002.03B A program not previously funded by the Department will have one year from the effective date of the contract to become certified. The Department may grant an extension to this developmental period up to one additional year.~~

~~002.04 The contracts must specify if payment is based on expense reimbursement, purchase of service, or service development.~~

~~003 APPEAL PROCEDURE. Any party aggrieved by the application of any regulation shall be entitled to an appeal and may request a hearing with the Department of Public Institutions, as set forth within Title 207 "Rules of Practice and Procedure for Administrative Hearings before the Department of Public Institutions."~~

~~003.01 The aggrieved party shall request from the Director of the Department of Public Institutions, a Complaint and Request for Hearing Form.~~

~~003.02 The Director shall, within five days of the request, send a Complaint and Request for Hearing Form to the aggrieved party.~~

~~003.03 The aggrieved party shall complete and file the Form with the Director within 30 days of the date of the decision being grieved.~~

~~003.04 The Department of Public Institutions shall, upon receipt of the Form, commence the hearing process pursuant to 207 NAC 1.~~

~~004 MONITORING AND ACCOUNTABILITY. The Director shall take action to enforce these regulations; such action may include delay, reduction, the withholding of payments, and/or requirement for repayment of payment(s) made to the contractor.~~

~~005 SYSTEM MANAGEMENT. System Management means the operation within the Department which supports the implementation of a case management system for persons disabled by severe and persistent mental illness, as well as authorizes payment of services provided within Psychiatric Rehabilitation programs under the Consumer Based Reimbursement System. Specific functions include but are not limited to:~~

~~005.01 Setting eligibility criteria for admission into programs receiving funds under the Consumer Based Reimbursement System.~~

~~005.02 Determining the eligibility of consumers for the service coordination and other programs receiving payment for services provided under the Consumer Based Reimbursement System.~~

~~005.03 Referring eligible consumers to the service coordination provider.~~

~~005.04 Approving the Individual Program Plan completed by the service coordinators for each eligible consumer.~~

~~005.05 Determining when the consumer is no longer eligible to receive services provided under the Consumer Based Reimbursement System.~~

~~006 WAIVER PROCEDURE. The Director may waive, unless otherwise stated in these regulations, the application of any regulation in Chapter 2 through 5 as deemed appropriate to further the development and implementation of community mental health programs.~~

~~006.01 To apply for a waiver, a provider shall submit a written request which includes:~~

~~006.01A Citation of the specific part of the regulation to be waived;~~

~~006.01B Reasons for the waiver request;~~

~~006.01C If appropriate, activities or performance criteria to replace the requirement of the Regulation(s) and the date the provider is expected to attain compliance;~~

~~006.01D The signature of the organization/program director or individual provider;~~

~~006.01 E Authorization from the provider's governing body to request a waiver; and~~

~~006.0 1F Approval by the regional governing board when the provider is under contract with the region.~~

~~006.02 The Director shall make a determination to grant the waiver when the provider's proposed alternative performance meets the following conditions:~~

~~006.02A It is consistent with the intent of the specified regulation;~~

~~006.02B It conforms to good and customary administrative management, and programmatic practices;~~

~~006.02C It protects the rights, health and safety of the consumers; and~~

~~006.02D It does not relieve the provider of the responsibility to comply with other pertinent regulatory requirements.~~

~~006.03 The Department shall review the waiver request and issue a decision by certified mail to the provider, with a copy to the regional governing board when the provider is under contract with the region, within 30 days following receipt of the request. When a waiver is granted:~~

~~006.03A It shall be for a specified time period not to exceed the end of the program certification as specified under 204 NAC 005.~~

~~006.03B A provider must receive written approval from the Department prior to implementation of a waiver.~~

~~006.03C A provider shall meet all the conditions prescribed by the Department in granting the waiver. Failure to comply with the specified conditions voids the waiver.~~

~~006.04 A provider aggrieved by a decision to deny a waiver may appeal to the Director of the Department of Public Institutions pursuant to 207 NAC 1.~~

~~007 QUALITY IMPROVEMENT. The Department will develop, implement and maintain quality improvement functions designed to assess and improve the governance, management, clinical, support, and other related functions which affect the outcomes of the community mental health programs funded in whole or in part by the Department.~~