~~CHAPTER 4 - REGULATIONS PERTAINING TO FINANCE AND ADMINISTRATION~~

~~The requirements under this chapter apply to Regional Governing Boards (hereafter referred to as "region") as well as an organization or individual (hereafter referred to as "provider") receiving community mental health funds directly from the Department or from the Department through a Regional Governing Board.~~

~~001 REPORTING. Each region/provider receiving funds administered by the Department, shall maintain, and shall file with the Department on request, such data, statistics, schedules, reports and information as the Department requires including participation in the Department's Management Information System.~~

~~001.01A When the provider is under contract with the region, the provider shall send the requested material to the Department through the region.~~

~~001.01B The Department may request documentation, information, or other related material from a provider be directly sent to the Department under conditions determined by the Department.~~

~~002 INSPECTIONS. Region/provider receiving funds administered by the Department shall permit inspection of all programmatic and fiscal records and shall allow access for on-site monitoring by Department authorized representatives. The provider shall also permit inspection of all programmatic and fiscal records and allow for on-site inspection by authorized personnel of the region.~~

~~003 FISCAL ACCOUNTABILITY. Region/provider shall have fiscal and budgetary systems which provide appropriate accounting for and spending of funds administered by the Department.~~

~~003.01 Fiscal Accountability shall be consistent with the principles and standards set by the American Institute of Certified Public Accountants (hereafter referred to as AICPA). Accounting and internal control procedures must be in accordance with practices based on generally accepted accounting principles, consistently applied, according to AICPA standards regardless of sources of funds. All supporting records must itemize income and expenditures in sufficient detail to show the exact nature of income and expenditures.~~

~~003.02 Procedures and records must allow for easy access to evidence of appropriate spending as required by the Department.~~

~~003.03 The accounting system shall provide for completion of an annual financial report which meets the following requirements:~~

~~003.03A Permits ready accountability of all sources of funding from the respective funding agencies and includes a separate accounting of mental health funding from the funding of any other programs and services offered by the region/provider;~~

~~003.03B Maintains payroll authorization to effect proper control of salaries and wages. The authorizations should be approved by an appropriate authority of the region/provider.~~

~~003.03C Maintains payroll documentation for all salaries and wages prepared at the end of each pay period showing the name of each employee, and gross amount of salary; and all deductions/contributions such as retirement, social security tax, insurance and related areas;~~

~~003.03D Maintains adequate records supporting all expenditures for technical assistance, operation of programs, leasing, renting, maintenance of facilities, for the initiation and continuation of programs and services;~~

~~003.03E Provides for payment by check with cancelled checks on file for examination; or cash disbursements supported by signed receipts;~~

~~003.04 Each mental health program funded by the Department under these regulations must have its own "cost center" for receipt and expenditure of funds received from the Department. Substance abuse or other non-mental health program(s), if any, must also have cost centers which are separate and distinct from the mental health program(s) funded in whole or in part by the Department.~~

~~003.05 Region/provider shall maintain accounting records until:~~

~~003.05A At least five years following the end of the contract period, or until resolution of any audit questions, whichever is later.~~

~~003.05B Accounting records must be disposed of in accordance with the requirements of the Records Management Act (" 84-1201 through 84-1227 and subsequent amendments thereto).~~

~~003.06 Accounting records must be maintained in sufficient detail for each program funded by the Department to allow for the calculation and documentation of "cost per unit of service."~~

~~003.07 Each region/provider shall be accountable to the "contracting authority" for all equipment purchased in whole or in part with funds paid by the contracting authority during service development and/or expense reimbursement of programs.~~

~~003.07A A complete and continuously updated inventory of all equipment must be maintained at all times showing the purchase price, date purchased, vendor, and description of equipment owned, including serial numbers, if applicable.~~

~~003.07B Any equipment inventory items purchased in whole or in part with funds administered by the contracting authority are subject to recovery by the contracting authority in the event of the program decertification, termination, dissolution, or misuse of funds.~~

~~004 ANNUAL AUDIT. Every region/provider receiving mental health funds administered by the Department shall contract for an annual independent audit of its financial operation by certified public accountants licensed to practice in the State of Nebraska using generally accepted auditing techniques consistent with the principles and standards set by AICPA.~~

~~004.01 Such audits must include the following:~~

~~004.01 A A review of receipts and disbursements;~~

~~004.01B A review of cash control procedures;~~

~~004.01C An audit of the program's income statement, balance sheet, and a specific report on fund balances.~~

~~004.01C1 The fund balances for mental health shall be tracked and accounted for separately from the fund balances of any other non-mental health services offered by the region/provider, consistent with AICPA standards.~~

~~004.01C2 The audit shall identify any restricted or designated funds on the balance sheet and statement of income and expenses.~~

~~004.01C3 The purpose of restricted or designated funds should be disclosed in the notes to the financial statements.~~

~~004.01D A review of required Department financial reports of actual costs and express an opinion on the validity of the information through the notes to the financial statements or as a separate letter/opinion to the Department.~~

~~004.01E Perform such tests and examinations as are deemed necessary under the circumstances to verify the accuracy of the numbers and required documentation of units of service billed to the Department, in accordance with applicable provisions of the contract for the time period being audited.~~

~~004.01E1 In completing the Regional Governing Board Audit:~~

~~004.01E1a The auditors shall review a random sample of the units billed from each program to the Department for the year.~~

~~004.01E1b When the Region has a unit of service verification system as specified under 004.01 E4, the auditors shall review the processes and findings from the Region's unit of service verification function.~~

~~004.01E2 The auditor must report the total number of units tested and the number of verified units for each program. When errors are encountered in the initial sample, if in the judgment of the reviewer there are a material number, the sample size must be increased.~~

~~004.01E3 The Region shall ensure that the audits of providers receiving mental health funds includes examinations to verify the accuracy of the numbers of units of services billed to the Region.~~

~~004.01E4 The Regional Governing Board may develop procedures for verifying the units of service billed by the Provider(s) receiving mental health funds.~~

~~004.01E4a If the Regional Governing Board is also a direct service provider, the examination to verify the accuracy of units billed must meet the requirements set forth in 004.01E1a for these direct services.~~

~~004.01E4b The Region's unit verification procedures must have the prior written approval of the Department. When approved by the Department, the Region's unit verification procedure may take the place of the auditor's unit verification of the Provider(s) for the requirements of 004.01E3.~~

~~004.01E4c The Region's unit verification procedures shall meet the requirements specified in the contract between the Region and the Department.~~

~~004.01E4c1 When errors are encountered in the initial sample, if in the judgment of the reviewer there are a material number, the sample size must be increased.~~

~~004.01E5 Each unit of service (except Consultation and Education) can be tracked back to the individual service record.~~

~~004.01E5a Specific documentation includes the client data form for the Department's management information system and a specific progress note documenting the service provided consistent with Department requirements.~~

~~004.01 E5b Each Consultation and Education unit of service is documented in a manner consistent with the requirements of 204 NAC 5-003.05 and 204 NAC 5-003.06.~~

~~004.01F The Regional Governing Board Audit includes the review of the certified local match dollars as required under 204 NAC 3 -006.03.~~

~~004.02 Two copies of audits and any related information from the auditor must be submitted to the Department no later than 120 calendar days after the end of the region/provider's fiscal year.~~

~~004.03 Region/provider with a total annual operating budget of less than $75,000 for which federal audit standards of 004.04 do not apply, may submit a detailed financial statement providing a review of receipts and disbursements, including a source and use of funds statement, and a statement of fund balances, in lieu of the independent audit. Audit by the Department may be conducted in order to verify this statement.~~

~~004.04 Region/provider receiving federal funds must submit an annual audit conforming with the provisions of OMB Circular A-128 or A-133, if applicable, and/or any other requirements mandated by federal statutes or regulations.~~

~~004.05 The audit shall present the financial information for the mental health programs separately from any programs or services which may be offered by the region/provider.~~

~~004.06 Cost of the audit shall be paid for by the organization being audited. If the Department determines the first audit does not comply with these regulations, the Department may require a second audit. The organization being audited shall be responsible for the cost of the second audit.~~

~~004.07 Failure by a region/provider to comply with the audit Regulations shall result in the Department contracting for an independent audit of the region/provider. The cost of such audit shall be deducted from the organization's allocation and/or payment.~~

~~004.08 If the independent audit reveals material weaknesses, the region/provider shall submit a plan of corrections to the Department within sixty (60) days of the completed audit in response to the audit recommendations.~~

~~004.09 In the case of services provided by a licensed hospital, the Department may accept a copy of the hospital's most recently submitted annual Medicare cost report in lieu of the required annual independent audit.~~

~~004.10 No waiver of Regulation 204 NAC 4-004 or any of its parts shall be granted.~~

~~005 ALLOWABLE COSTS. Use of state and/or federal funds administered by the Department are limited to the cost of providing approved Department services including employment of personnel, technical assistance, consultation, operation of programs, leasing, renting and maintenance of facilities, and for the initiation and continuance of programs and services.~~

~~005.01 Travel costs related to the programs funded in whole or in part by the Department are allowable, and cannot exceed the amounts specified in applicable Internal Revenue Service guidelines.~~

~~005.02 The use of state funds for alteration, renovation, or minor remodeling of real property is allowable under the following conditions:~~

~~005.02A Alteration or renovation is needed to accomplish the objectives of the mental health program and is approved by the Department.~~

~~005.02B The space involved will actually be occupied by the region/provider.~~

~~005.02C The costs of alterations or remodeling are the result of a competitive bidding process.~~

~~005.02D There is documentation by a suitably qualified individual that the building has a useable life consistent with program purposes and is structurally suitable for conversion.~~

~~005.02E There is, prior to alteration or renovation of rented space, a lease approved by the Department.~~

~~005.03 The costs related to purchase of adequate insurance coverage to cover the region/provider's exposure. The region/provider shall annually file a certificate of coverage showing the kinds of coverage with the contract authority.~~

~~006 UNALLOWABLE COSTS. Any costs not properly related to carrying out the purpose of the program under contract are unallowable. Costs determined to be unallowable and not eligible for support by mental health funds administered by the Department include but are not limited to:~~

~~006.01 Costs for services which occurred in a prior or subsequent fiscal year are unallowable. All reimbursement must be for the cost of services rendered during the contract period.~~

~~006.02 Contributions to a restricted fund or any similar provision for unforeseen events are unallowable.~~

~~006.03 Any personal costs unrelated to the provision of approved services and/or costs of personal gifts are unallowable.~~

~~006.04 Costs of amusements, social activities, and related expenses for employees and governing body members are unallowable, except when part of an authorized consumer treatment/rehabilitation program. .~~

~~006.05 Costs of luncheons or dinners held to award employees are unallowable.~~

~~006.06 Costs of a personal nature unrelated to the provision of approved program are unallowable.~~

~~006.07 Costs of alcoholic beverages are unallowable.~~

~~006.08 Costs resulting from violations of, or failure to comply with federal, state and local laws and regulations are unallowable.~~

~~006.09 Costs relating to lobbying or attempts to influence/promote legislative action by local, state or federal government are unallowable.~~

~~006.10 Costs of lawsuits or other legal or court proceedings against the Department, or its employees, or State of Nebraska are unallowable.~~

~~007 FEE SCHEDULE. The provider receiving community mental health funds administered by the Department shall charge persons receiving mental health services fees in accordance with their ability to pay, but not in excess of actual cost.~~

~~007.01 A program funded in whole or in part under a contract with the Department shall not be denied to persons residing in Nebraska because of inability to pay scheduled fees, including preadmission deposits.~~

~~007.02 Funds received under a contract with the Department shall supplement and not supplant any other sources of revenue available to contribute or assist in the support of a Department funded program delivering services to consumers.~~

~~007.03 Each Region shall assure fee schedules used in all programs under its authority are uniform as to the following components:~~

~~007.03a The methods used to determine charges.~~

~~007.03b The methods used to determine ability to pay.~~

~~007.03c The methods used for reducing or waiving fees.~~

~~007.04 The Provider's governing body shall annually review and approve each funded program's policies and procedures regarding the fee schedule. The Fee Schedule policies and procedures must include:~~

~~007.04A The method(s) used to determine program charges.~~

~~007.04B The methods used to determine the consumer's ability to pay for services provided. Such methods must take into account taxable income and assets, the number of family members dependent on this income/assets, and the financial liabilities of the consumer.~~

~~007.05 Each program funded by the Department but not funded by the Region shall use the uniform methods for fee schedules designed by the Region under 007.03, unless an alternative method is approved by the Department.~~

~~007.06 The provider will forward to the contracting authority a copy of the current policies regarding fee schedules and the current fee schedule for the program(s) funded in whole or in part by the Department.~~

~~007.07 No waiver of Regulation 204 NAC 4-007 or any of its parts shall be granted.~~

~~008 PERSONNEL COSTS. If program personnel are compensated, in whole or in part, with room and board, any such compensation must be in accordance with applicable state and federal tax provisions.~~

~~009 PUBLICITY. Publications describing an organization/program funded by the Department shall disclose within such publications that the organization/program is partially funded by the Nebraska Department of Public Institutions, Office of Community Mental Health.~~

~~010 SUBCONTRACTING. The provider shall obtain written approval from the Region, when the provider is under contract with the Region, and the Department prior to subcontracting mental health program(s) funded under a contract with the Department.~~

~~010.01 The Region shall follow the requirements specified under 204 NAC 3-005 for contracting with providers for mental health programs funded in whole or in part by the Department.~~

~~010.02 All subcontracts for mental health program(s) funded in whole or in part by the Department must be in writing.~~

~~010.03 All subcontracts must specify that the subcontractor must comply with these regulations.~~

~~010.04 No waiver of Regulation 204 NAC 4-010 shall be granted.~~

~~011 EQUAL OPPORTUNITY/AFFIRMATIVE ACTION.~~

~~011.01 All Regional Governing Boards and contracting providers agree to abide by all of the applicable federal, state, and local laws and regulations as they relate to equal employment opportunities and affirmative action. This includes equal opportunity for persons with mental illness.~~

~~011.02 The region/provider shall prepare an affirmative action plan or related policy statements if such is required by the Department.~~

~~011.03 The region/provider shall comply with all affirmative action compliance review procedures deemed necessary by the Department.~~

~~011.04 All individuals who have a complaint with the region/ provider under the Americans with Disabilities Act will have access to the regions/providers grievance procedures. All individuals referred to under this section include: (a) any eligible person who is referred to receive services offered by the region/providers program, (b) the people considered by the region/providers program to be active consumers, (c) applicants for employment by the region/provider, and (d) employees of the region/provider. Programs referred to under this section means all services receiving community mental health funds administered by the Department.~~

~~011.05 No waiver of 204 NAC 4-011 or its parts shall be granted.~~

~~012 CONFLICT OF INTEREST.~~

~~012.01 The governing body of the region/provider shall have policies and procedures which guard against a conflict of interest between the region/provider and any individual member of the organization.~~

~~012.01a For the purposes of these regulations, a conflict of interest exists when an organizational matter to be acted upon confers a substantial, personal benefit to a member of the governing body, an employee, a volunteer, a student, a consultant, or to a member of their immediate families.~~

~~012.02b For the purposes of these regulations, immediate family member means a child residing in the person's household, a spouse, or an individual claimed by that person or that person's spouse as a dependent for federal income tax purposes.~~

~~012.02 Such policies and procedures shall, at a minimum, ensure no person covered under 012.01a:~~

~~012.02a Is the recipient of gifts or gratuities from individuals or organizations doing business with the region/provider;~~

~~012.02b Misuses confidential information;~~

~~012.02c Uses the organization's personnel, resources, property, or funds for personal financial gain;~~

~~012.02d Is awarded contracts or business unless it is awarded through an open and public process and is approved by the Governing Body;~~

~~012.02e Employs immediate family members without prior written approval from the Governing Body;~~

~~012.03 The Governing Body shall have policies and procedures covering the method by which a person covered under these requirements shall disclose in writing the existence or possible existence of a conflict of interest.~~

~~013 CONSUMER BASED REIMBURSEMENT SYSTEM. The Consumer Based Reimbursement System (hereafter referred to as CBRS) is funding administered by the Department with the Region/Provider for psychiatric rehabilitation/support programs for persons disabled by severe persistent mental illness.~~

~~013.01 The CBRS provider will receive payment for only those authorized unit(s) of service provided to consumers found eligible for CBRS program(s) by the Department.~~

~~013.02 The CBRS provider will complete an Annual Cost Report of actual expenditures for each CBRS program in the manner specified by the Department, to be submitted no later than sixty (60) days after the end of the contract period.~~

~~014 CHANGES IN PROGRAM ADMINISTRATION - The Region/Provider shall report in writing to the Department within 20 days of its occurrence any of the following changes: (1) changes regarding programs offered by the Regional Governing Board and/or a Provider which are different from the approved Regional Plan of Expenditure; (2) changes in ownership, the governing body's responsibilities or structure, or control of program(s); and (3) any changes in the capacity and/or type(s) of programs.~~

~~The Department may immediately terminate and/or amend the contract containing mental health funds administered by the Department, or any portion thereof, based on the changes reported, within thirty days of receiving the report from the Region/Provider.~~

~~015 MANAGEMENT OF CONSUMER'S FUNDS: The provider shall have a written policy on whether or not the provider will be involved in the management of consumer funds. If the provider elects to be involved in the management of consumer funds, there must be written policies and procedures approved by the governing body which identify the system to be used when the provider exercises control over the funds of a consumer to ensure that the provider maintains proper accountability for those funds.~~

~~015.01 The consumer's file must document when and how it was determined that the provider would exercise control over a consumer's funds.~~

~~015.01A The circumstances leading to this action;~~

~~015.01B The rationale for this action;~~

~~0 15. 01C The protocol followed in taking this action; and~~

~~015.01D The plan for revoking this action, including methods and timeframes for implementation.~~

~~015.01E Unless otherwise allowed under law (e.g., payee, conservator, guardian), the consumer shall agree in writing, with the provider's involvement in the management of these funds.~~

~~015.02 Each consumer shall have an individual financial record that includes:~~

~~015.02A Documentation of all cash funds, savings and/or checking accounts, deposits and withdrawals;~~

~~015.02B An individual ledger which provides a record of all funds received and disbursed and the current balance; and~~

~~015.02C Documentation that the individual has access to and opportunities to handle his/her money.~~

~~015.03 If the provider has the responsibility for the management of individuals' funds,~~

~~015.03A A separate accounting is maintained for each individual;~~

~~015.03B Account balances and records of transactions are provided to the individual or the individual's fiscal representative as requested, but at least quarterly;~~

~~015.03C The consumer, as well as the parents, guardian, advocate, and/or fiscal representative are advised as required by law or agreed to by the conservator:~~

~~015.03C1 Prior to depletion of funds;~~

~~015.03C2 When large balances are accrued; and/or~~

~~015.03C3 When entitlement program eligibility can be affected.~~

~~015.04 The provider shall have policies and procedures to prohibit the borrowing of personal funds from the consumer by staff and/or other consumers.~~

~~015.05 The provider shall have policies and procedures approved by the governing body regarding the repair of damaged property or the replacement of destroyed property (either private or public), using an individual's personal funds.~~

~~015.06 No consumer's funds shall be withdrawn without the written approval of the consumer, the consumer's legal representative, or by an order of a judge or a court.~~

~~015.07 The provider shall have written policies and procedures on how financial errors, overdrafts, and missing money will be handled.~~

~~015.08 No waiver of 204 NAC 4-015 or its parts shall be granted.~~

~~016 FALSIFICATION OF DOCUMENTS. Documentation and information provided by the region or provider to the Department is a critical element in the contracting process and in~~

~~determining compliance with regulations and contract requirements. The Department assumes the information and documentation is accurate, truthful, and complete.~~

~~016.01 The falsification of documents or information by the region or provider will be grounds to immediately terminate the existing contract, to withhold all payments under the contract, or to obtain repayment of any funds paid on the basis of the false documentation or information.~~

~~016.02 Unintentional errors in documents or information provided to the Department by the region or provider will be grounds to withhold payment under the contract, not to exceed the amount of any overpayment based on the error, or to require repayment of any funds paid to the region or provider based on the erroneous documentation or information.~~