TITLE 206 BEHAVIORAL HEALTH SERVICES

CHAPTER 3-000 DIVISION ADMINISTRATION

3-001 ADMINISTRATION: The Division will act as the chief behavioral health authority for the State of Nebraska. The Division will direct the administration and coordination of the public behavioral health system, including, but not limited to:

1. Administration and management of the Division, regional centers, and any other facilities and programs operated by the Division;
2. Integration and coordination of the public behavioral health system;
3. Comprehensive statewide planning for the provision of an appropriate array of community-based behavioral health services and continuum of care;
4. Coordination and oversight of regional behavioral health authorities, including approval of regional budgets and audits of regional behavioral health authorities;
5. Development and management of data and information systems;
6. Prioritization and approval of all expenditures of funds received and administered by the Division including the establishment of rates to be paid and reimbursement methodologies for behavioral health services and fees to be paid by consumers of such services;
7. The Division distributes funds contingent upon their availability. Should the Division lack the state or federal funds necessary to fulfill its fiscal responsibility, the contracts/agreements will be renegotiated or terminated.
8. Cooperation with the Department in the licensure and regulation of behavioral health professionals, programs, and facilities;
9. Cooperation with the Department in the provision of behavioral health services under the Medical Assistance Program;
10. Audits of behavioral health programs and services;
11. Promotion of activities in research and education to improve the quality of behavioral health services, recruitment and retention of behavioral health professionals and access to Behavioral Health programs and services; and
12. Coordination of the integration and management of all funds appropriated by the Legislature or otherwise received by the Department from any other public or private source for the provision of behavioral health services;
13. Ensuring the statewide availability of an appropriate array of community-based behavioral health services and continuum of care and the allocation of such funds to support the consumer and his or her plan of treatment.

3-001.01 The Division will ensure that community-based behavioral health services are provided in the most integrated setting appropriate based on an individualized and person-centered assessment of the consumer.

3-001.02 The Division will take action to enforce these regulations. These actions may include the delay, reduction, or withholding of payments, or requirement for repayment of payment(s) made to the contractor or any combination of these actions.

3-002 CONTRACTS: The Division will contract for the delivery of behavioral health programs and services.

3-002.01 The Division may negotiate and enter into contracts with the RBHA's for community-based behavioral health programs and services.

3-002.01A To receive funds administered by the Division, a provider funded through a RBHA must be accredited by a nationally recognized accrediting organization, unless a nationally recognized accrediting organization appropriate to the organization's mission cannot be identified.

3-002.02 The Division may negotiate and enter into contracts with tribal governments, organizations, and/or individuals for mental health, substance use disorder, prevention programs, and/or services not provided through the RBHA.

3-002.02A The Division will provide contractor oversight when contracting directly with providers and tribal governments.

3-002.03 Submission of Reports and Other Documents: The Division has the authority to request that the Regional Governing Board provide reports, evaluations, plans, and any other documents as deemed necessary by the Division for monitoring and accountability.

3-002.04 Inspections: The Division has the authority to inspect all programmatic and fiscal records of each Regional Governing Board, which must allow access for on-site monitoring by authorized representatives of the Division.

3-003 QUALITY IMPROVEMENT: The Division will develop, implement, and maintain quality improvement functions designed to continually assess and improve the outcomes of the community behavioral health programs funded in whole or in part by the Division.

3-003.01 The Division will develop an annual quality improvement plan.

3-003.01A Outcome Measures: RBHA's must collect data on outcome measures. Outcome data reporting requirements may be included in contracts or in a written document and will outline data to be collected and specific outcome measures related to the Emergency Systems, Youth Systems, Consumer and Family System, and the Network Management System, as well as any federal block grant outcome measurement reporting requirements.

3-003.02 The Division will monitor the submissions and hold contractors accountable to correct any undesired trends or variations from the acceptable range. Failure to achieve desired results over a period of time may result in technical assistance or corrective action, if necessary.

3-004 HEARINGS: Any party aggrieved by the application of any regulation is entitled to an appeal and may request a hearing consistent with the Nebraska Administrative Procedure Act (Neb. Rev. Stat. §§ 84-901 to 84-920).

3-005 ALTERNATIVE COMPLIANCE: The Division may approve a request for alternative compliance with any regulation in Chapters 4 through 7, unless otherwise stated in these regulations, as deemed appropriate to further the development and implementation of community-based behavioral health services.

3-005.01 To apply for alternative compliance with a regulation, a provider must submit a written request to the Division. This request must include:

1. Citation of the specific regulation for which alternative compliance is being requested;
2. Reasons for the request for alternative compliance;
3. If appropriate, activities or performance criteria to replace the requirement of the regulation and the date the provider is expected to attain compliance;
4. The signature of the organization/program director or individual provider;
5. Authorization from the provider's governing body to request alternative compliance;
6. Approval by the regional governing board when the provider is under contract with the Regional Behavioral Health Authority; and
7. Documentation of evidence of how alternative compliance with the regulation would enhance quality, accessibility, public safety and cost effectiveness.

3-005.02 The Division makes a determination to grant the request for alternative compliance when the provider's proposal:

1. Is consistent with the intent of the specified regulation;
2. Conforms to good and customary administrative management and programmatic practices;
3. Protects the rights, health, and safety of the consumers;
4. Does not relieve the provider of the responsibility to comply with other pertinent regulatory requirements; and
5. Contains documentation of evidence of how alternative compliance with the regulation would enhance quality, accessibility, public safety, and cost effectiveness.

3-005.03 The Division will review the 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 Regional Behavioral Health Authority, within 30 days following receipt of the request. When alternative compliance is granted:

1. It will be for a specified time period not to exceed the end of the program certification as specified under Title 206;
2. A provider must receive written approval from the Division before implementing alternative compliance; and
3. A provider must meet all the conditions prescribed by the Division in granting alternative compliance. Failure to comply with the specified conditions voids the authorization for alternative compliance.

3-005.04 A provider aggrieved by a decision to deny a request for alternative compliance may appeal to the Director pursuant to 207 NAC 1.

3-006 COMMITTEES: The Nebraska Behavioral Health Services Act created state advisory committees. Members are appointed by the Governor.

3-006.01 State Advisory Committee on Mental Health Services: Pursuant to Neb. Rev. Stat. § 71-814, the State Advisory Committee on Mental Health Services is responsible to the Division and has the following responsibilities:

1. Serve as the state's mental health planning council as required by Public Law 102-321;
2. Conduct regular meetings;
3. Provide advice and assistance to the Division relating to the provision of mental health services in Nebraska, including but not limited to the development, implementation, provision, and funding of organized peer support services;
4. Promote the interests of consumers and their families, including, but not limited to, their inclusion and involvement in all aspects of services design, planning, implementation, provision, education, evaluation, and research;
5. Provide reports as requested by the Division; and
6. Engage in any other activities as directed or authorized by the Division.

3-006.02 State Advisory Committee on Substance Abuse Services: Pursuant to Neb. Rev. Stat. § 71-815, the State Advisory Committee on Substance Abuse Services is responsible to the Division and has the following responsibilities:

1. Conduct regular meetings;
2. Provide advice and assistance to the Division relating to the provision of substance abuse services in Nebraska;
3. Promote the interests of consumers and their families;
4. Provide reports as requested by the Division; and
5. Engage in any other activities as directed or authorized by the Division.

3-007 DIVISION OF BEHAVIORAL HEALTH: The final authority for the application of these regulations under this title rests with the Division.

3-008 INTERPRETATION DOCUMENTS: The Division may issue manuals, notices, bulletins, or other guidance documents to interpret the provisions of this title. These manuals, notices, bulletins, or other guidance documents will be consistent with and reflect the regulations contained in this title.