



**OFFICE OF MENTAL HEALTH
AND SUBSTANCE ABUSE
SERVICES BULLETIN**

ISSUE DATE:

December 17, 2024

EFFECTIVE DATE:

December 17, 2024

NUMBER:

OMHSAS-24-04

SUBJECT:

Procedure for Waiver of Office of Mental Health and Substance Abuse Services (OMHSAS) Program Regulations and Standards

BY:

**Jennifer S. Smith, Deputy Secretary
Office of Mental Health and Substance Abuse Services**

SCOPE:

County MH/IDD Administrators
Licensed and Approved Mental Health Facilities and Agencies
Behavioral Health Managed Care Organizations (BH-MCOs)

PURPOSE:

To revise and clarify the procedures for submitting and processing requests for waiver of the Office of Mental Health and Substance Abuse Services (OMHSAS) program regulations or standards that are used to license or approve behavioral health providers.

BACKGROUND:

The Department of Human Services (Department) issued bulletin OMHSAS-16-03, "Revised Procedure for Waiver of Office of Mental Health and Substance Abuse Services (OHMSAS) Program Regulations and Standards", on April 19, 2016, to update and clarify the procedure for submitting and processing of waiver requests to OMHSAS.

OMHSAS licenses or approves community mental health facilities and agencies and other service providers operating in the Commonwealth of Pennsylvania. In accordance with this responsibility, the Department's authorized agents periodically inspect mental health facilities and agencies. If regulatory requirements are met, certificates of compliance or approvals are granted under Article IX of the Human Services Code (62 P.S. §§ 901 – 922) or under Article X of the Human Services Code (62 P.S. §§ 1001 – 1080).

Pursuant to applicable regulations, a facility or agency may request a time limited waiver of regulations or program standards, or a portion of regulations or program standards. All regulatory waiver requests are subject to applicable waiver of standard requirements as outlined by each chapter or bulletin. In reviewing any such waiver request, OMHSAS will consider whether the facility or agency has demonstrated that substitute measures assure the

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Office of Mental Health and Substance Abuse Services, Bureau of Policy, Planning and Program Development, P.O. Box 2675, Harrisburg, PA 17105. General Office Number 717-772-7900
Email: RA-PWOMHSASBULLETINS@pa.gov

health, safety, and welfare of all individuals who reside in the facility or who receive services from the agency.

This bulletin updates regulatory waiver language and the process to appeal a waiver determination.

PROCEDURE:

COMMUNITY MENTAL HEALTH FACILITIES AND AGENCIES LICENSED AND/OR APPROVED BY OMHSAS

Community mental health facilities and agencies must first submit the request for a waiver to the County MH/IDD Administrator of each county the facility or agency will serve. The County MH/IDD Administrator(s) should respond in writing to the facility or agency within 10 business days of receipt of the request with a decision to support or oppose the waiver request. Facilities and agencies must include the written response from the County MH/IDD Administrator(s) with the waiver request and submit them to the OMHSAS Field Office for that area.

The OMHSAS Field Office will complete a Waiver Transmittal Form and forward the full waiver request submission to OMHSAS' Bureau of Policy, Planning, and Program Development (BPPPD) within 15 days for review and processing. BPPPD will make the determination within 60 days of receiving the waiver request. Determinations may be delayed or denied if all of the information required below is not included in the waiver request.

1. The facility or agency's name and address;
2. The number on the Certificate of Compliance, when applicable;
3. The citation to the Pa. Code or Bulletin section from which the waiver is requested;
4. The citation to the Pa. Code or Bulletin section that permits the requested waiver (for example, 55 Pa. Code § 5230.91; OMHSAS-10-03, Attachment D, 1st paragraph; etc.) when applicable;
5. The period of time covered by the requested waiver;
6. The reason the facility or agency is requesting the waiver;
7. Detailed justification for granting the waiver request, along with supporting documentation to substantiate the request;
8. Explanation with concrete assurances how the health, safety, and welfare of individuals will be safeguarded during the proposed period of the waiver;
9. Measures taken to meet the purpose of the regulation throughout the proposed period of the waiver; and
10. Measures taken or planned to reestablish compliance with the regulation as written.

OMHSAS will also consider any specific provisions regarding waivers contained in the applicable regulatory chapter or bulletin. OMHSAS will not process incomplete waiver requests. Instead, OMHSAS will return an incomplete waiver request that is missing any of the information above to the facility or agency. For waiver requests relating to staff qualifications, supporting documentation must be submitted, including transcripts and resumes adequately describing specific roles and functions.

Facilities and agencies may request renewal of an approved waiver. Requests for continuation of the waiver must be submitted to the OMHSAS Field Office 60 days in advance of the approved waiver's expiration date or 60 days prior to the date of license renewal, whichever is earlier. All waiver continuance requests are subject to applicable waiver of standard requirements as outlined by each chapter or bulletin licensed or approved by OMHSAS. Requests for renewal must contain all information listed above, including a letter of support from the County MH/IDD Administrator(s)

WAIVER DETERMINATIONS

Waivers granted by OMHSAS are to be considered only in exceptional circumstances and are subject to approval and time limitations. Waivers may be requested only in areas where the need for these services and the attempts to meet the standards are adequately documented. A waiver will be granted only when the health and safety of an individual and the quality of service are not adversely affected.

Facilities or agencies should not consider the submission of a waiver request to mean that it is approved and that they are excused from following the regulation or standard. Instead, facilities and agencies must comply with the regulation and standard as it is written unless and until they receive a written notice that the waiver has been approved, along with any additional conditions of the approval.

APPEALS

Facilities and agencies may appeal adverse rulings regarding requests for waiver. Appeals are directed to:

OMHSAS Bureau of Policy, Planning & Program Development
ATTN: Waiver Appeals
P.O. Box 2675
Harrisburg, Pennsylvania 17105

Or RA-PWOMHSASWAIVERS@pa.gov

Any appeal must be in writing and must be received within 30 days of the mailing date of the letter being appealed.

OBSOLETE BULLETIN:

OMHSAS-16-03, *Revised Procedure for Waiver of Office of Mental Health and Substance Abuse Services (OMHSAS) Program Regulations and Standards*, is obsoleted by this bulletin.