



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: March 28, 2018

TO: Ms. Andrea Godfrey, Deputy Chief of Staff
Delaware Department of Justice

FROM: Ms. Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

RE: 21 DE Reg. 678 [DDOJ Proposed Regulation Amending Victims Compensation Assistance Program Advisory Council on Compensation Rate for Mental Health Services (3/1/18)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Justice's proposed regulation to amend regulations regarding the VCAP program in two ways. First, the DDOJ is adding some requirements regarding supervision of unlicensed clinicians who are under weekly supervision of a licensed behavioral health professional. The proposed regulation was published as 21 DE Reg. 678 in the March 1, 2018 issue of the Register of Regulations.

The current regulation allows for reimbursement of unlicensed mental health professionals who are under the direct supervision of a licensed professional. The proposed regulation specifies that the unlicensed professionals must meet at least weekly and supervision must be documented in a log that lists date, time and number of cases discussed. The log must be signed. The regulation makes clear that the supervisor assumes clinical responsibility for employees.

These guidelines help to ensure that providers of mental health services through VCAP are adequately supervised.

The second amendment adds clarifying language that payment for mental health services for victims who are Medicaid or Medicare recipients is limited to Medicaid or Medicare reimbursement rates. The regulation indicates that providers must accept VCAP payment as payment in full.

This amendment will have no financial impact on the victim receiving services; if the person is seeing a Medicaid provider, then there will be no balance billing. For all billers, providers are obligated to accept VCAP payment as payment in full.

There is some concern that some providers who do not accept Medicaid or Medicare may be unwilling to accept lower payment rates, and therefore the pool of therapists and mental health providers may shrink if this regulation is enacted. As a practical matter, the regulatory change may limit Medicaid and Medicare recipients to providers who are paneled with Medicaid and Medicare, even though those providers are not their choice or have extensive wait times.

The SCPD is endorsing the proposed regulation, but is inquiring whether reducing the reimbursement rate for private providers to the Medicaid or Medicare rate will lead to fewer available providers for Medicaid and Medicare recipients, with longer wait times.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position and observations on the proposed regulation.

cc: The Honorable Matt Denn, DOJ
Ms. Laura Waterland, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disability Council

21reg678 doj amending vcap advisory council 3-28-18