

DEPARTMENT OF MENTAL HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Mental Health (Department), pursuant to the authority set forth in sections 104 and 105 of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code §§ 7-1131.04 and 7-1131.05 (2008 Repl.)), hereby gives notice of the adoption of a new chapter 37 entitled “Mental Health Supported Employment Certification Standards”, of subtitle A (Mental Health) of title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The purpose of chapter 37 is to create certification standards for Supported Employment Programs that offer supported employment services to individuals who receive services from the Department or Department-certified mental health providers. A Supported Employment Program must be operated by an agency that is certified as a Mental Health Rehabilitation Services provider pursuant to chapter 34 of subtitle A of title 22 of the DCMR, as well as comply with the requirements of this new Chapter. Some of the supported employment services provided by a Supported Employment Program certified pursuant to this chapter will qualify as a community support Mental Health Rehabilitation Service.

The Department provides an evidence-based supported employment program designed for adult consumers with a serious mental health illness for whom competitive employment has been interrupted or intermittent as a result of a significant mental health problem. Supported employment involves obtaining a part-time or full-time job in which a consumer receives support in a competitive employment setting and in which the consumer earns at least minimum wage. Supports include intake, assessment, job club, treatment team coordination, job development, ongoing job coaching, and follow-up for each consumer, including offering job options that are diverse and permanent.

The proposed rulemaking was published on October 28, 2011, in the *D.C. Register* at 58 DCR 9275. No comments have been received on the proposed rules, and no substantive changes were made to the proposed rules as originally published on October 28, 2011. Minor technical corrections were made to rulemaking to correct the numbering, punctuation, and grammatical errors, and also to clarify that when used in this rulemaking, “Department” and “DMH” refers to the Department of Mental Health so to prevent any confusion. These changes do not alter the substantive nature, intent, or application of the rules.

The Department of Mental Health took final action on the rule on November 29, 2011. This rule will become effective on the date of publication of this notice in the *D.C. Register*.

Subtitle A (Mental Health) of Title 22 (Health) of the DCMR is amended by adding a new Chapter 37 to read as follows:

**CHAPTER 37 MENTAL HEALTH SUPPORTED EMPLOYMENT
CERTIFICATION STANDARDS**

3700 MENTAL HEALTH SUPPORTED EMPLOYMENT CERTIFICATION STANDARDS

3700.1 These rules establish the requirements and process for certifying a Mental Health Rehabilitation Services (MHRS) provider as a Supported Employment Program provider in the District of Columbia.

3700.2 Supported Employment is an evidence-based practice that:

- (a) Provides ongoing work-based vocational assessments, job development, job coaching, development of natural supports, and time unlimited follow-along supports for each consumer;
- (b) Utilizes zero exclusion criteria governing the enrollment of consumers in the supported employment program;
- (c) Provides services at various work sites; and
- (d) Provides job options that are diverse, competitive, integrated with co-workers without disabilities, and based in business or employment settings that have permanent status rather than temporary or time-limited status.

3701 INITIAL CERTIFICATION REQUIREMENTS

3701.1 No person or entity shall operate a Supported Employment Program unless certified in accordance with this chapter.

3701.2 No person or entity shall seek certification from the Department of Mental Health (Department or DMH) as a Supported Employment Program Provider unless already certified as an MHRS provider (a Core Services Agency (CSA), sub-provider or specialty provider certified in accordance with chapter 34 of this subtitle).

3701.3 An MHRS provider seeking certification from the Department as a Supported Employment Program provider shall submit an application to the Department in the format established by the Department. The completed application shall include:

- (a) Proof of current certification as an MHRS provider, either as a Core Service Agency, sub provider, or specialty provider;
- (b) Proof of adequate staffing for the Supported Employment Program in accordance with section 3705 of this chapter;
- (c) Proof that adequate staff will be in place at the program start-up and that a staff selection policy is in place;

(d) Proof of a Supported Employment Policy that states program set-up policies and procedures; and

(e) Other evidence that the Department requires.

3701.4 The Department shall process applications for certification as a Supported Employment Program in accordance with the rules established for MHRS certification set forth in subsection 3401 of chapter 34 of this subtitle.

3701.5 Initial certification as a Supported Employment Program is effective for a one (1)-year period. Certification shall remain in effect until it expires, is revoked or the provider is re-certified in accordance with section 3702 of this chapter.

3701.6 During the initial certification period, the Supported Employment Program shall:

(a) Participate in a baseline program evaluation using a Supported Employment Fidelity Scale as established by Department policy within thirty (30) days after initial certification is granted and operations have begun;

(b) Enter into a contractual relationship with the Department of Disability Services, Rehabilitation Services Agency (RSA) within six (6) months of its initial certification from the Department; and

(c) Participate in a second program evaluation six (6) months after program start-up.

3701.7 A certified Supported Employment Program receiving a fidelity score below an acceptable score during fidelity assessments will be required to develop a plan of correction and receive technical assistance from the Department. If the Supported Employment Program's annual score does not improve to an acceptable score within six (6) months of the original fidelity score, the provider shall not be eligible for recertification.

3701.8 A Supported Employment provider that fails to enter into, or maintain, a contractual relationship with RSA shall not be eligible for recertification.

3701.9 Certification is not transferable to any other organization.

3702 RECERTIFICATION REQUIREMENTS

3702.1 Recertification applications shall be processed in accordance with the requirements in section 3401 of chapter 34 of this subtitle.

- 3702.2 An MHRS provider seeking recertification from the Department as a Supported Employment Program provider shall submit an application to the Department in the format established by the Department. The completed application shall include:
- (a) Proof of current certification as an MHRS provider, either as a Core Service Agency, sub-provider, or specialty provider;
 - (b) Proof of adequate staffing for the Supported Employment Program in accordance with section 3705 of this chapter;
 - (c) Proof of a current contract with RSA; and
 - (d) Other evidence that the Department determines.
- 3702.3 Recertification is effective for a two (2)-year period from the date of issuance of re-certification by the Department, subject to the provider's continuous compliance with the certification standards.
- 3702.4 During any recertification period, the Supported Employment Program shall:
- (a) Participate in an annual program evaluation using a Supported Employment Fidelity Scale as established by Department policy; and
 - (b) Maintain a contractual relationship with RSA.
- 3702.5 A certified Supported Employment Program receiving a fidelity score below an acceptable score level during an annual fidelity assessment will be required to develop a plan of correction and receive technical assistance from the Department. If the Supported Employment Program's annual score does not improve to an acceptable score within six (6) months of the original fidelity score, the provider shall not be eligible for recertification and may be subject to decertification.
- 3702.6 Recertification is not transferable to any other organization
- 3703 SUPPORTED EMPLOYMENT SERVICES ELIGIBILITY**
- 3703.1 To be eligible for Supported Employment services, a consumer shall:
- (a) Be seriously and persistently mentally ill and have a primary diagnosis from the Diagnostic and Statistical Manual, Fourth Edition, Text Revision (DSM-IV-TR) on Axis I, or a primary diagnosis on Axis II of a Personality Disorder;
 - (b) Be at least eighteen (18) years of age;

- (c) Indicate an interest in employment; and
- (d) Have Supported Employment identified as a service on a current valid Individual Recovery Plan (IRP).

3704 SUPPORTED EMPLOYMENT SERVICES

3704.1 Supported employment is designed for consumers who are seriously and persistently mentally ill and have a primary diagnosis from the DSM-IV-TR on Axis I, or a primary diagnosis on Axis II of a Personality Disorder, for whom competitive employment has not traditionally occurred, or for whom competitive employment has been interrupted or intermittent as a result of the disability.

3704.2 Supported Employment involves community-based employment in integrated work settings that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice of the consumer.

3704.3 An evidence-based supported employment program includes the following services:

- (a) Intake, which involves obtaining background, clinical, and employment information in order to enroll the consumer into the evidence-based supported employment program and initiate a referral to RSA;
- (b) Vocational Assessment, which consists of conducting vocational assessments, and assessment of person-centered employment information in order to identify the individual's employment interests, preferences, and abilities;
- (c) Individualized Work Plan (IWP) development, which includes the process of developing a plan with the consumer that includes an employment goal and the support services required to reach the goal, such as integrating employment goals into the IRP, strategies to address stressor situations, assistance with symptom self-monitoring and self management, and assistance in increasing social support skills and networks that ameliorate life stresses resulting from the Consumer's mental illness or emotional disturbance and are necessary to enable and maintain the consumer's independent living;
- (d) Supported Employment job club, which assists consumers in understanding how to complete job applications, effective interviewing techniques, resume writing, appropriate grooming, hygiene, and dress for work situations;

- (e) Benefits counseling, which helps consumers to examine and understand how employment may impact benefits such as supplemental security income (SSI), social security disability income (SSDI), medical assistance, and other disability-related benefits, and may also involve advocacy on behalf of the person to resolve issues;
- (f) Treatment team coordination, which involves coordination and contact with treatment team members regarding the provision of evidence-based supported employment services;
- (g) Job development, which involves contacting employers through various activities in order to obtain community-based employment for consumers;
- (h) Time limited job coaching, which helps consumers learn job duties once employed through on-the-job training, effective use of community resources, and consultation with the worker's employer, coworkers, family or supervisors as necessary for a maximum of ninety (90) days;
- (i) Unlimited ongoing job coaching, which involves the provision of on and off-the-job supports to help a consumer manage his or her illness to achieve personal recovery goals, including employment, and resolve challenges, disruptions, and conflicts in the person's life that negatively impact on the consumer's health and ability to work;
- (j) Job assistance, which involves assisting the consumer with management of mental illness, with requirements of employment, such as teaching and reinforcing previously learned strategies for controlling emotions, focusing on tasks, assertiveness, utilization of coping techniques, socialization, boundary issues, averting crises, and crisis intervention to help prevent symptom exacerbation and minimize disruptions to employment; and
- (k) Time unlimited follow-along supports for the consumer and employer which include:
 - (1) Consumer follow-along supports, including crisis intervention, job coaching, treatment changes, travel training, job support groups, and career counseling; and
 - (2) Employer supports, including working with the employer to make reasonable accommodations to enhance job performance, contacting the employer to monitor progress and resolve issues, and working with the employer and consumer to establish effective supervision and feedback strategies.

3705 SUPPORTED EMPLOYMENT PROGRAM STAFFING REQUIREMENTS

- 3705.1 The supervisor for a Supported Employment program must be a Qualified Practitioner.
- 3705.2 A Supported Employment program shall have a minimum of two (2) full-time Employment Specialists.
- 3705.3 A Supported Employment program shall have one (1) Employment Specialist for every twenty (20) consumers in its program.
- 3705.4 A Supported Employment program shall comply with staff requirements set forth in subsections 3410.9 and 3410.10 of chapter 34 of this subtitle.
- 3705.5 Employment Specialists shall carry out all phases of supported employment services including, Intake, Vocational Assessment, Individualized Work Plan development, Job Club, Benefits Counseling, Treatment Team Coordination, Job Development, Job Coaching, Job Assistance, and Follow-along Supports.
- 3705.6 Supported Employment supervisors and Employment Specialists shall be trained in accordance with evidence-based supported employment principles and practices and attend the Department's supported employment meetings held periodically.

3706 REIMBURSEMENT

- 3706.1 Supported Employment Providers with a contract with RSA will seek reimbursement from RSA for the following services provided to consumers enrolled with RSA:
- (a) Job Development; and
 - (b) Time-limited Job Coaching.
- 3706.2 All services not reimbursed by RSA shall be billed by the Supported Employment provider in accordance with the DMH billing manual and in accordance with subsection 3706.3 and 3706.4 this section.
- 3706.3 The following services shall be billed as Supported Employment (non-MHRS):
- (a) Intake;
 - (b) Supported Employment Job Club;
 - (c) Treatment Team Coordination;

- (d) Job Development (if not able to be billed to RSA); and
- (e) Time Limited Job Coaching (if not able to be billed to RSA).

3706.4 The following MHRs services shall be billed as Community Support –Supported Employment:

- (a) Assessment;
- (b) Benefits Counseling;
- (c) Follow-along Supports; and
- (d) Ongoing Job Coaching.

3707 SUPPORTED EMPLOYMENT RECORDS AND DOCUMENTATION REQUIREMENTS

3707.1 Each Supported Employment Program shall establish and adhere to an Employment Record Policy for employment record documentation, security, and confidentiality of consumer information. The Employment Record Policy shall:

- (a) Require the Supported Employment Program to maintain all employment records in a secured and locked storage area;
- (b) Require the Supported Employment Program to maintain secure, clear, organized, and comprehensive employment records for every consumer enrolled in the supported employment program;
- (c) Set forth requirements for documentation maintained in the employment record;
- (d) Require that the Supported Employment Program comply with a Documentation and Retention and Disaster Recovery Plan; and
- (e) Keep Supported Employment documents for a minimum of six (6) years.

3707.2 The following documents shall be included in the consumer's employment record:

- (a) Referral and intake information;
- (b) Identifying information about the consumer;

- (c) Appropriate release of information forms;
- (d) Current IRP which includes the consumer's employment goals and objectives and identification of supported employment as a medically necessary service;
- (e) Individualized Work Plan (IWP);
- (f) Employment and employer contact information;
- (g) Benefits information such as receipt of Social Security and Temporary Assistance to Needy Families benefits; and
- (h) Information about referrals to Rehabilitation Services Administration.

3707.3 Employment Specialists shall document services on a service note, which shall:

- (a) Describe the employment activities performed to assist the consumer in obtaining employment;
- (b) Describe what supports were provided to enhance the consumer's potential for securing employment;
- (c) Document the consumer's response to the employment activities and supports described in the progress note, including the choices and perceptions of the consumer regarding the service(s) provided;
- (d) Be signed and dated by the staff member providing the service; and
- (e) Include the appropriate billing code for that particular service.

3707.4 The Supported Employment Program will collect supported employment outcome information and provide such data to the Department monthly and upon request. Outcome data to be collected consists of the:

- (a) Number of consumers referred and the source of the referral;
- (b) Number of consumers enrolled;
- (c) Number of consumers served;
- (d) Number of consumers employed;
- (e) Number of inactive consumers;

- (f) Number of total full-time Employment Specialists;
- (g) Number of consumers referred to the Rehabilitation Services Administration;
- (h) Number of consumers participating in education programs;
- (i) Average number of hours that consumers worked;
- (j) Average hourly wage paid to consumers;
- (k) Number of consumers receiving benefits (health, dental, and retirement) from employers;
- (l) Locations of employers who have hired consumers; and
- (m) Any other information that the Department requires.

3707.5 The Supported Employment program will ensure that a monthly progress note is completed in accordance with the requirements of subsection 3410.7 of chapter 34 of this subtitle, including signature by a Qualified Practitioner. The monthly progress note will be forwarded to the consumer's clinical home in a timely manner for inclusion in his or her clinical record.

3708 SUPPORTED EMPLOYMENT REFERRALS

3708.1 Referrals to the supported employment program may be made by CSAs, consumers, family members, advocates, or other service providers.

3708.2 All consumers must be assessed by a CSA prior to referral to a supported employment program.

3708.3 Referrals from a CSA shall be made in writing and include the following:

- (a) Case manager contact information;
- (b) Contact information for the consumer, including emergency contact information (family member, friend, or guardian as applicable);
- (c) Current IRP;
- (d) Crisis Plan for the consumer, if available; and
- (e) Advance Directives or instructions, if available.

3709 INTEGRATION WITH CLINICAL HOME TREATMENT TEAM

- 3709.1 Employment specialists shall be integrated as part of the consumer's clinical home treatment team. The employment specialist shall attend regular treatment team meetings and maintain frequent contact with treatment team members.
- 3709.2 As a treatment team member, the employment specialist may participate in the development of the IRP and is responsible for helping the consumer achieve the goals written in the plan with regard to employment.
- 3709.3 Services provided by the employment specialist should be consistent with the goals relating to employment included in the consumer's IRP.

3799 DEFINITIONS

- 3799.1 When used in this chapter, the following words shall have the meanings ascribed:

Consumer – A person who seeks or receives mental health services or mental health supports funded or regulated by the Department.

Core Service Agency or CSA- a Department –certified community-based MHRS provider that has entered into a Human Care Agreement with the Department to provide specific MHRS in accordance with the requirements of chapter 34 of this subtitle.

Department of Mental Health or DMH – the District of Columbia agency that regulates the District's mental health system for adults, children, and youth.

Department on Disability Services Rehabilitation Services Agency (RSA) – the District government entity that provides employment services to those individuals with developmental and other disabilities.

Employment Specialist – person who works for an evidence-based Supported Employment Program; must satisfy all requirements for unlicensed credentialed workers pursuant to section 3410 of chapter 34 this subtitle and all training requirements established by the Department.

Individual Rehabilitation Plan or IRP – the individualized service plan for a person with mental illness who is receiving MHRS, as further described in sections 3407 and 3408 of chapter 34 of this subtitle.

Individualized Work Plan or IWP – a plan developed between the Supported Employment Program and with the consumer that includes an employment goal and the support services required to reach the goal.

Mental Health Rehabilitation Services or MHRS- mental health rehabilitative or palliative services provided by a Department-certified community mental health provider to consumers in accordance with the District of Columbia State Medicaid Plan, the Medical Assistance Administration (MAA) (now Department of Health Care Finance (DHCF))/ Department Interagency Agreement, and chapter 34 of this subtitle.

Qualified Practitioner – a psychiatrist, psychologist, independent clinical social worker, advance practice registered nurse, registered nurse, licensed professional counselor, independent social worker, or an addiction counselor.

Specialty Provider – a community-based organization MHRS provider certified by DMH to provide specialty services either directly or through contract.

Subprovider – a community-based organization certified by DMH to provide one or more MHRS core services(s) through an affiliation agreement with a CSA.

Supported Employment – a consumer obtaining a part-time or full-time job with supports in a competitive setting, for which the consumer earns at least minimum wage.

Supported Employment Fidelity Scale or Fidelity Scale – a supported employment program evaluation tool developed in accordance with an evidence-based practice adopted by the Department as stated in Department policy.