



To: Provider Associations
Voluntary Provider Agency Executive Directors
DDSOD Directors
DDRO Directors
IBR Director
Commissioner's Advisory Council
DDPC Consumer Caucus
OPWDD Required Regulations Mailing List

From: OPWDD Counsel Office, Bureau of Policy and Regulatory Affairs

Date: March 2, 2016

Re: **Emergency/Proposed Regulations – Conforming Changes Related to Chapter 106 of the Laws of 2015**

Effective Date of Emergency Regulations: Tuesday, March 1, 2016
Comments on Proposed Regulations Due: Monday, May 2, 2016

Suggested distribution:

Agency Administrators and Managers
Agency Financial Officers
Service Coordinators and Supervisors

Purpose:

Effective March 1, 2016, OPWDD has implemented emergency regulations that amend requirements in 14 NYCRR Section 633.21 to conform to recent statutory changes set forth in Chapter 106 of the Laws of 2015. OPWDD has also filed identical regulations through the proposed rulemaking process.

OPWDD regulations in Section 633.21 identify an administrative process that provides due process for individuals receiving transitional care who are offered a residential placement in OPWDD's system and who object to such placement. The emergency/proposed amendments add these due process protections for individuals receiving care through emergency funding pursuant to subdivision (g) of section 13.38 of the Mental Hygiene Law.

The emergency/proposed amendments also make changes to OPWDD's administrative process outlined in the regulations. The amendments designate a hearing officer to conduct the hearing as opposed to the Regional Review Panel formerly charged with this responsibility. The hearing officer will conduct the hearing and send a written report and recommendation to the Commissioner of OPWDD. The amendments state that the Commissioner or designee will make a determination and notify the objecting party within 30 days after the close of the hearing record. The amendments also allow for written notice of an individual's right to appeal his or her residential placement to be sent by ordinary mail, as opposed to certified, return receipt. The amendments outline requirements for the content of the notice and the timeframes for sending the notice and scheduling the hearing, and specify the process for requesting appeals.

These emergency/proposed amendments make due process practices consistent with other due process practices in OPWDD's system with which individuals receiving services are familiar. Further, the changes will result in easier navigation of OPWDD's administrative process by individuals and providers who wish to object to proposed residential placements.

The full text of the emergency/proposed regulations is posted on the OPWDD website at www.opwdd.ny.gov. Look under "Regulations & Guidance."

Public comments:

The deadline for public comment on the proposed regulations is the close of business on Monday, May 2, 2016. Written comments should be addressed to:

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For questions regarding specific application of these regulations, please contact the Bureau of Policy and Regulatory Affairs in OPWDD's Counsel's Office at RAU.unit@opwdd.ny.gov.

Thank you.