



ISSUE DATE

**April 19, 2016**

EFFECTIVE DATE:

**Immediately**

NUMBER:

**OMHSAS-16-03**

SUBJECT:

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

BY:

Dennis Marion  
Deputy Secretary  
Office of Mental Health and Substance Abuse Services

**SCOPE:**

County MH/ID Administrators  
Licensed and approved behavioral health facilities and agencies  
Behavioral Health Managed Care Organizations (BH-MCOs)

**PURPOSE:**

To update and clarify the procedure for submitting and processing requests for waiver of OMHSAS program regulations or standards that are used to license or approve behavioral health providers.

**BACKGROUND:**

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

Pursuant to applicable regulations, a facility may request a waiver of regulations or program standards, or portion of regulations or program standards. See, e.g., 55 Pa. Code §§ 5200.48 (Psychiatric Outpatient Clinics), 5210.57 (Partial Hospitalization), 5230.91 (Psychiatric Rehabilitation Services), 5310.5 (Community Residential Rehabilitation Services for the Mentally Ill), 5320.101 (Long Term Structured Residences). In reviewing any such waiver request, OMHSAS will consider whether the facility has demonstrated that substitute measures assure the health, safety and welfare of all individuals who reside in the facility or who receive services from the agency.

**COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:**  
Office of Mental Health and Substance Abuse Services, Bureau of Policy, Planning & Program Development, P.O. Box 2675, Harrisburg, PA 17105. General Office Number 717-772-7900.

## **PROCEDURE:**

Agencies first submit the request for a waiver to the County MH/ID Administrator of each county the agency will serve. The County MH/ID administrator(s) should respond in writing to the agency within 10 business days of receipt of the request with a decision to support or oppose the waiver request. Agencies must include the written response from the MH/ID Administrator(s) with the waiver request and submit them to the regional Field Office Manager for that area.

The field office should forward the waiver requests to the Bureau of Policy, Planning, and Program Development within 15 days for review and processing. OMHSAS Policy will make the determination within 60 days of the initial waiver request. Determinations may be delayed or denied if all of the information required below is not included in the waiver request.

Facilities or agencies should submit all of the following information for each waiver request so that OMHSAS can conduct a timely and effective review:

1. The facility or agency's name and address;
2. The number on the Certificate of Compliance, when applicable;
3. 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, 1<sup>st</sup> paragraph; etc.);
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;
8. Explanation with concrete assurances how the health, safety and welfare of consumers will be safe-guarded during the proposed period of the waiver;
9. Measures taken to meet the purpose of the regulation throughout the proposed period of the waiver.
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. 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.

Facilities and 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. Instead, facilities or

agencies must comply with the regulation as it is written unless and until they receive a written notice that waiver has been approved, along with any additional conditions of the approval.

Agencies may also request renewal of an approved waiver. Requests for continuation of the waiver must be submitted to the Field Office Manager 60 days in advance of the approved waiver's expiration date or 60 days prior to the date of license renewal, whichever is earlier. Requests for renewal must contain all information listed above, including a letter of support from the County MH/ID Administrator(s).

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-PWBPPPD@pa.gov](mailto:RA-PWBPPPD@pa.gov)

Any appeal must be in writing and must be received within 10 days of the mailing date of the letter being appealed.

**OBSOLETE BULLETINS:**

OMHSAS-99-08 is obsoleted by this bulletin.