

QIDP Professional TRAINING



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Module Overview

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Module 9 Introduction

Why are rules and regulations important to you, as a QIDP?

As a QIDP you have an obligation and responsibility to ensure that the rules and regulations that apply to your program and agency are followed. While you are not expected to be an expert in all regulations that apply to your agency, you are expected to have a basic understanding of those that apply to the program within which you work.

Objectives

Participants will be able to:

- Recognize the role of rules and regulations in promoting quality services for the individuals we serve.
- Identify the difference between Medicare and Medicaid.
- Explain the importance of Medicaid waivers and identify the rule and/or waiver that applies to the program in which they work.
- Distinguish between the regulatory bodies common to this industry.
- Know how to locate online the rules and regulations that govern this field.
- Outline agency-specific procedures for the implementation and control of governmental rules and regulations.
- Discuss the role of the QIDP in DHS or IDPH surveys.

RULES AND REGULATIONS

*“Our lives begin to end the day we become silent
about things that matter.”*

- Martin Luther King, Jr.

Although some people may be inclined to think of rules and regulations as a nuisance or as something that “gets in the way” of delivering services, keep in mind they were first developed and continue to be used as one avenue of promoting quality services. Not all that long ago, people with intellectual and developmental disabilities were mistreated and not respected.

Failure to comply with rules and regulations can negatively impact:

- The safety and well-being of those served
- The quality of services provided
- Funding
- Licensure
- Staff
- Relationships with families, guardians and other agencies
- The credibility of our agency and staff

Medicaid Waivers

While Congress and the Centers for Medicare and Medicaid Services (CMS) set out the general rules under which Medicaid operates, each state runs its own program. Medicaid is a program that is not solely funded at the federal level. States provide up to half of the funding for the Medicaid program. In some states, counties also contribute funds. There are many services that can fall under Medicaid and some states support more services than other states. The most provided services are intermediate care for intellectually and developmentally disabled, prescription drugs and nursing facility care for under 21-year-olds.

Unlike Medicaid, Medicare is a social insurance program funded at the federal level and focuses primarily on the older population. Medicare is a health insurance program for people age 65 or older, people under age 65 with certain disabilities, and people of all ages with end stage renal disease. The Medicare Program provides Medicare Part A which covers hospital bills, Medicare Part B which covers medical insurance coverage, and Medicare Part D which covers prescription drugs.

The main criterion for Medicaid eligibility is limited income and financial resources, a criterion which plays no role in determining Medicare coverage. Medicaid covers a wider range of health care services than Medicare. Some people are eligible for both Medicaid and Medicare.

What is A Waiver?

Beginning in the 1980s, many states received waivers from the federal government to create Medicaid managed care programs. Under managed care, Medicaid recipients are enrolled in a private health plan, which receives a fixed monthly premium from the state. The health plan is then responsible for providing for all or most of the recipient's healthcare needs. Today, all but a few states use managed care to provide coverage to a significant proportion of Medicaid enrollees. As of 2014, 26 states have contracts with Managed Care Organizations (MCOs) to deliver long-term care for the elderly and individuals with disabilities.

The 1915(c) waivers are one of many options available to states to allow the provision of long term care services in home and community based settings under the Medicaid Program. States can offer a variety of services under a Home and Community Services (HCBS) Waiver program. Programs can provide a combination of standard medical services and non-medical services. Standard services include but are not limited to: case management (i.e. supports and service coordination), homemaker, home health aide, personal care, adult day health services, habilitation (both day and residential), and respite care. States can also propose "other" types of services that may assist in diverting and/or transitioning individuals from institutional settings into their homes and community.

Medicaid waivers provide states with some flexibility in determining the services they provide, who can provide the services and how health, safety and quality are determined. The state must make certain assurances to the federal government in order to have the waiver approved:

- Each person served must have an individual plan of care developed by qualified professionals
- Necessary safeguards must be taken to ensure the health and safety those in program
- Each person served has a free choice of qualified provider
- State must account for all funds; how monies are spent, for whom and for what services

Significant Court Decisions Impacting Disability Services

Wyatt v Stickney

In this landmark 1971 case, a federal court in Alabama held for the first time that people who are involuntarily committed to state institutions because of mental illness or developmental disabilities have a constitutional right to treatment that will afford them a realistic opportunity to return to society. The ruling led to sweeping reforms in the nation's mental health systems and the creation of minimum standards of care and rehabilitation for people with mental illness and developmental disabilities.

Olmstead v. L.C. & E.W.

The story of the Olmstead case begins with two women, Lois Curtis and Elaine Wilson, who had mental illness and developmental disabilities, and were voluntarily admitted to the psychiatric unit in the State-run Georgia Regional Hospital. Following the women's medical treatment there, mental health professionals stated that each was ready to move to a community-based program. However, the women remained confined in the institution, each for several years after the initial treatment was concluded. They filed suit under the Americans with Disabilities Act (ADA) in 1995 for release from the hospital.

In 2009, the Civil Rights Division launched an aggressive effort to enforce the Supreme Court's decision in *Olmstead v. L.C.*, a ruling that requires states to eliminate unnecessary segregation of persons with disabilities and to ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs.

Ligas v. Hamos (Illinois)

The Ligas v. Hamos lawsuit was filed on July 28, 2005 on behalf of adults with developmental disabilities living in private, Illinois State-funded Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD) who want to move to community-based services or settings and on behalf of adults with developmental disabilities living at home who want community-based services or settings. In June 15, 2011, the Ligas v. Hamos Consent Decree was approved by the Court. This consent decree provides timelines for providing transition to individuals who wish to live in community-based residential setting.

Licensing & Regulations

The Illinois Department of Human Services, Bureau of Accreditation, Licensure & Certification (BALC) is responsible for licensing programs and services for persons with intellectual and developmental disabilities under Title 59 and 77 of the Illinois Administrative Code. After initial licensing, programs undergo annual review to ensure the existence of structural and procedural standards believed necessary for quality services.

BQM (Bureau of Quality Management) reviews compliance with other quality-related rules and guidelines of DHS, specifically those located in the provider contract(s) or in other relevant rules, such as Medication Administration (116).

QIDPs work across many different programs and are often responsible for work that directly correlates to regulatory requirements. Regulations for many programs are below:

Administrative Code: Title 59 Mental Health

Chapter I Department of Human Services

Part 50 Office of Inspector General investigations of alleged abuse or neglect in state-operated facilities and community agencies

Part 115 Community Integrated Living Arrangements

Part 116 Administration of Medication in Community Settings

Part 117 Family Assistance and Home-based Support Programs for Persons with Mental Disabilities

Part 119 Minimum Standards for Certification of Developmental Training Programs

Part 120 Medicaid home and community-based services waiver program for individuals with developmental disabilities

To find the full content of the Rules above go to www.ilga.gov/commission/jcar.

Click on Title 59 to find Part 50, 116, 117, 119 and 120. Clicking on “Part” will take you to that particular content.

Administrative Code: Title 77

Part 350 intermediate care for the developmentally disabled facilities code (ICFDD)

To find the full content of the Rules above go to www.ilga.gov/commission/jcar.

Click on Title 77 to find Part 120. Clicking on “Part” will take you to that particular content.

Accreditation

In addition to state and federal standards of service, Illinois also requires that some Intellectual and Developmental Disabilities programs be accredited by national accrediting agencies. These agencies maintain their own structural and procedural standards and review programs independently of the Department of Human Services.

Deemed status has been granted for portions of department rules based on recognition of national accreditation standards adequately addressing the same principles. Therefore, to avoid duplication of reviews, BALC surveyors do not review the rule sections for which deemed status has been granted. Two of the most popular are:

- The Council on Quality and Leadership-CQL www.thecouncil.org
- Commission on Accreditation of Rehabilitation Facilities-CARF www.carf.org/home



Discuss deemed status as it applies to your agency.

Guardianship and Advocacy

Created in 1979, the Illinois Guardianship and Advocacy Commission protects the rights and promotes the welfare of persons with disabilities by providing legal representation, investigating complaints of rights violations and providing state guardianship.

The following website offers a comprehensive detail of the Guardianship and Advocacy Commission: <http://www.illinois.gov/sites/gac/AboutUs/Pages/GuardFAQ.aspx>



Discuss the role of guardianship as it relates to a person's day to day life.

Mental Health & Developmental Disabilities Code

The Mental Health and Developmental Disabilities Code addresses issues related to the rights of individuals with mental health and/or developmental disabilities. It covers such topics as money, property, mail, refusal of services, advocacy and many other topics. It is important for you to become familiar with this law as it relates to your role as a QIDP.

Office of Inspector General Investigations of Alleged Abuse or Neglect and Deaths in State-Operated and Community Agency Facilities (59 Ill. Adm. Code 50)

The Office of Inspector General (OIG) for the Department of Human Services (DHS) was “created to investigate and report upon allegations of the abuse, neglect, or financial exploitation of individuals receiving services within mental health facilities, developmental disabilities facilities, and community agencies operated, licensed, funded, or certified by the Department of Human Services.” The rule is known as “Rule 50” because it is located in the Administrative Code, Title 59, Chapter 1; Part 50. The Hotline for reporting incidents of abuse, neglect and financial exploitation for the above individuals is: **1-800-368-1463**.

Adult Protective Services Act (320/ILCS 20)

The Adult Protective Services Act governs rules for reports of abuse, neglect and financial exploitation for adults 18-59 years of age with a disability or adults 60+ years of age who live in a **domestic living situation**. “Domestic living situation” means a residence where the adult with disabilities lives alone or with his or her family or a caregiver, or others, or other community based unlicensed facility. The Hotline for reporting incidents of abuse, neglect and financial exploitation for the above individuals is: **1-866-800-1409**.

Rules and Regulations

Title 59 Part 115 - CILA

Licensure and Certification Act [210 ILCS 135] is to license agencies for community residential programs known as Community Integrated Living Arrangements (CILA) for individuals with intellectual and developmental disabilities.

Discuss the following topics as they relate to Rule 115.



ISPs must be signed by guardians. Under what circumstances might this be delayed or not happen and how do you handle it?



Direct service employees must have a minimum of 80 hours of on the job training. What is your role in their training?



What is your role in fire and tornado safety training and drill?



What type of internal review processes does your agency maintain to ensure that the requirements for the CILA rule continue to be met?

Rules and Regulations

Title 59 Part 50 (Rule 50) Office of Inspector General Investigations of Alleged Abuse Or Neglect In State-Operated Facilities And Community Agencies

Office of Inspector General investigations of alleged abuse or neglect in state-operated facilities and community agencies.

Discuss the following topics as they relate to Rule 50.



How does your agency ensure that every staff member receives Rule 50 training and what is your role in that training?

Title 59 Part 116 - Medication Administration

This rule regulates the storage, distribution and administration of medications as well as the training of non-licensed staff in administration of medication.

Discuss the following topics as they relate to Rule 116.



In which programs does your agency train direct support employees to administer medications?



Discuss your agency's general practice with regard to medication storage.

Rules and Regulations

Title 59 Part 119 - Developmental Training

This rule regulates programs that provide developmental training to adults with intellectual and developmental disabilities. They are sometimes referred to as day programs.

Discuss the following topics as they relate to Rule 119.



As a QIDP for a residential program how will you stay informed of a person's day program services? (vice versa)



How many different programs do the people that you will support participate in and are they within your agency or others? How will you stay informed of the many activities that the people you support are involved in?

Title 77 Part 350 - Intermediate Care Facilities for Individuals with Intellectual/Developmental Disabilities

This rule provides regulations for residential programs larger than CILAs.

Discuss the following topics as they relate to Rule 350.



How are evening and weekend community based activities scheduled and encouraged and what will be your role in them?



What is your agency's expectation for QIDPs with regard to amount of time spent in the residence and direct service staff on the job training for data collection?

Rules and Regulations

Review the list of rules and regulations below and determine if each is applicable to your agency and to your program.

Specific Rule / Regulation	Your Agency	Your Program
Those applying to Guardianship & Advocacy		
Rule 350		
Rule 115		
Rule 116		
Rule 119		
Confidentiality Act		
Reporting Regulations (Abuse & Neglect) Rule 50		
Council on Quality and Leadership		
Commission on Accreditation of Rehabilitation Facilities (CARF)		
Medicaid Waiver		
Centers for Medicare & Medicaid Services (CMS)		
Joint Commission on Accreditation of Healthcare Organizations (JACHO)		
Mental Health Code		
Those generated by Illinois Department of Public Health (IDPH)		

Reporting Regulations

A variety of situations may require you to make an official report. Discuss with your trainer and your class the responsibilities related to each of these situations. Add additional issues to the list and review all appropriate forms.

Situation	When to Report	Who Should Report	Where to Report	Time Frames for Reporting	Form Name/Number
Abuse					
Neglect					
Injury					
Critical Incidents					
Change in Status					
Admission					
Discharge					
Transfers					

Recommended Reading & Resources

Although we try to cover a great deal of material with you today in class, the topic of rules and regulations is a broad one that requires continued study and attention throughout your career. We recommend the following resources as good places to start with regard to furthering your knowledge and understanding of this important topic.

Guardianship	http://www.illinois.gov/sites/gac/Pages/default.aspx
Illinois State Board of Education	http://www.isbe.net/
Nurse Practice Act	http://nursing.illinois.gov/nursepracticeact.asp
HIPAA	http://hfs.illinois.gov/hipaa/
Americans with Disabilities Act	http://www.ada.gov/
Medicaid Waivers	http://www2.illinois.gov/hfs/MedicalPrograms/HCBS/Pages/default.aspx
Centers for Medicare/Medicaid	http://cms.gov/
Council on Quality and Leadership	http://www.thecouncil.org
JACHO	http://www.jointcommission.org
CARF	http://www.carf.org/home
Illinois Dept. Human Services (ILDHS)	http://www.dhs.state.il.us/page.aspx
Illinois Dept. Public Health (ILDPH)	http://www.idph.state.il.us/
Consumer Rights Illinois	http://www.illinoisattorneygeneral.gov/consumers/consumer_publications.html
Illinois Department of Labor	https://www.illinois.gov/idol/Pages/default.aspx
IL Health Care and Family Services (ILHCFS)	http://www2.illinois.gov/hfs/Pages/default.aspx
Illinois Adult Protective Services Act	http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1452&ChapterID=31

Rules and Regulations: Where to Find Them

Rule Number	Title	Web Address
50	OIG Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies	www.ilga.gov/commission/jcar <ul style="list-style-type: none"> ▪ Click on 'Administrative Code' ▪ Click on Title 59 ▪ Click on Part 50
115	Standards & Licensure Requirements for Community-Integrated Living Arrangements	www.ilga.gov/commission/jcar <ul style="list-style-type: none"> ▪ Click on 'Administrative Code' ▪ Click on Title 59 ▪ Click on Part 115
116	Administration of Medication in Community Settings	www.ilga.gov/commission/jcar <ul style="list-style-type: none"> ▪ Click on 'Administrative Code' ▪ Click on Title 59 ▪ Click on Part 116
119	Minimum Standards for Certification of Developmental Training Programs	www.ilga.gov/commission/jcar <ul style="list-style-type: none"> ▪ Click on 'Administrative Code' ▪ Click on Title 59 ▪ Click on Part 119
350	Intermediate Care for the Developmentally Disabled Facilities Code (ICFDD)	www.ilga.gov/commission/jcar <ul style="list-style-type: none"> ▪ Click on 'Administrative Code' ▪ Click on Title 77 ▪ Click on Part 350
210 ILCS 30	Health facilities Abused and Neglected Long Term Care Facility Residents Reporting Act	www.ilga.gov/legislation <ul style="list-style-type: none"> ▪ Click on 'Compiled Statutes' ▪ Regulation; Chapter 210: Health Facilities ▪ Click on 210 ILCS 30
740 ILCS 110	Mental Health & Developmental Disabilities Confidentiality Act	www.ilga.gov/legislation <ul style="list-style-type: none"> ▪ Click on 'Compiled Statutes' ▪ Rights & Remedies; Chapter 740: Civil Liabilities ▪ Click on 110
405 ILCS 5	Mental Health & Developmental Disabilities Code	www.ilga.gov/legislation <ul style="list-style-type: none"> ▪ Click on 'Compiled Statutes' ▪ Health & Safety; Chapter 405: Mental Health ▪ Click on 405 ILCS 5