

TITLE 34-B, CHAPTER 15
CHILDREN'S MENTAL HEALTH SERVICES
SUBCHAPTER 1

CHILDREN'S MENTAL HEALTH PROGRAM

§15001. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

1. Blended funding; pooled funding; flexible funding. "Blended funding" means funding from all sources from the budgets and funds of the departments that are combined to be used for the provision of care and services under this chapter. "Pooled funding" and "flexible funding" have the same meaning as "blended funding".

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

2. Care. "Care" means treatment, services and care for mental health needs, including but not limited to crisis intervention services, outpatient services, respite services, utilization management, acute care, chronic care, residential care, home-based care and hospitalization services.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

3. Child. "Child" means a person from birth to 20 years of age who needs care for one of the following reasons:

A. A disability, as defined by the Diagnostic and Statistical Manual of Mental Health Disorders published by the American Psychiatric Association; [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

B. A disorder of infancy or early childhood, as defined in Disorders of Infancy and Early Childhood published by the National Center for Clinical Infant Programs; [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. Being assessed as at risk of mental impairment, emotional or behavioral disorder or developmental delay due to established environmental or biological risks using screening instruments developed and adopted by the departments through rulemaking; or [PL 2019, c. 343, Pt. DDD, §1 (AMD).]

D. A functional impairment as determined by screening instruments used to determine the appropriate type and level of services for children with functional impairments. The functional impairment must be assessed in 2 or more of the following areas:

(1) Developmentally appropriate self-care;

(2) An ability to build or maintain satisfactory relationships with peers and adults;

(3) Self-direction, including behavioral control;

(4) A capacity to live in a family or family equivalent; or

(5) An inability to learn that is not due to intellect, sensory or health factors. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).] [PL 2019, c. 343, Pt. DDD, §1 (AMD).]

4. Committee.

[PL 2019, c. 343, Pt. DDD, §2 (RP).]

5. Department. "Department" means the Department of Health and Human Services.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

6. Departments. "Departments" means the Department of Corrections, the Department of Education and the Department of Health and Human Services.

[RR 2003, c. 2, §108 (COR).]

7. Family. "Family" means the child's family and includes, as applicable to the child, the child's parents, legal guardian and guardian ad litem.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

8. Other departments. "Other departments" means the Department of Corrections and the Department of Education.

[RR 2003, c. 2, §109 (COR).]

9. Program. "Program" means the Children's Mental Health Program established in section 15002.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

10. Treatment. "Treatment" means the same as "care," as defined in subsection 2, for the purposes of this chapter.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

SECTION HISTORY

PL 1997, c. 790, §A1 (NEW). PL 1997, c. 790, §A3 (AFF). PL 2001, c. 354, §3 (AMD). RR 2003, c. 2, §§108,109 (COR). PL 2003, c. 689, §B6 (REV). PL 2019, c. 343, Pt. DDD, §§1, 2 (AMD).

§15002. Children's Mental Health Program established

The Children's Mental Health Program is established to identify children with mental health needs and to improve the provision of mental health care to children and supportive services to their families. The program must track the provision of care and services, the progress of the departments in providing care and services, the development of new resources for care and services and the use of all types of funds used for the purposes of this chapter, including funds from the departments' own budgets or through blended, pooled or flexible funding. The program is child and family-centered, focusing on the strengths and needs of the child and the child's family and providing care to meet those needs. The program is intended to create a structure for coordination of children's mental health care provided by the departments. The program does not create any new entitlements to care or services and does not diminish any entitlements granted by state or federal law, rule or regulation. The program is under the supervision of the commissioner and a director of children's mental health services, who has lead responsibility for implementation, monitoring and oversight of the program. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

1. Individualized treatment planning process. The individualized treatment planning process is based on the needs of the child and includes the participation of the child's family with the child, the department and the other departments. The individualized treatment planning process considers short-term and long-term objectives and all aspects of the child's life. Decisions in the individualized treatment planning process first address the need for safety for the child and then address the child's mental health and emotional, social, educational and physical needs in the least restrictive, most normative environment.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

2. Principles of care delivery and management. Decisions about the delivery of care to a child are made and care is managed at the local level in accordance with the following principles.

A. Care is clinically appropriate and is provided in the least restrictive manner possible. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

B. Care is provided as close to a child's residence as possible. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. The program promotes prevention, early identification and intervention for children in need of care and at risk of developing emotional problems. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

D. Each child has access to the same choices for care, regardless of residence, through a case management system that coordinates multiple services in a therapeutic manner and adjusts to changing needs, including the provision of adult mental health services when appropriate. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

E. Planning for the delivery of care takes into account the advice of the community service networks established under section 3608. [PL 2013, c. 132, §4 (AMD).]

[PL 2013, c. 132, §4 (AMD).]

3. Care delivery and management practices. Care delivery and management practices must adhere to the principles stated in subsection 2 and are subject to the requirements of this subsection.

A. Using the resources of the departments, the program must provide the child and family with a central location for obtaining information, applying and being assessed for care and supportive services, maintaining contact with case managers and department staff and, to the extent possible, obtaining care and supportive services. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

B. The delivery of care must be determined in accordance with subsections 1 and 2 using uniform intake and assessment protocols. Waiting lists may not be maintained if prohibited by law. The departments shall maintain records of all entries onto waiting lists with information about care that is needed and alternate or partial care that is provided. When the department releases waiting list information, that information may not identify the child or family by name or address. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. The system of providing care must be a functionally integrated, network-based system with the department as the single point of accountability. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

4. Grievance; appeal. The provisions of this subsection govern the right to grievance and appeal. The department shall provide notice to children and their families and guardians about the right to an informal grievance process and a formal appeal under this section for the review of care for the child, including clinical diagnosis and care, and departmental decisions.

A. The departments shall adopt rules providing for an informal grievance process that may be initiated at the request of a child or the child's family. The informal grievance process, which may utilize mediation, must include a written decision with findings of fact by an impartial hearing officer within one week of the filing of the grievance if mediation is not requested by the child or the child's family and, if mediation is requested, within 2 weeks of the filing of the grievance. Providers of care and advocates for the child may be heard at the request of the child or the child's family. The informal grievance process is provided in addition to any rights of appeal that may be available under law, rule or regulation. If the right to appeal is limited to a certain time period, that time period begins to run on the date of issuance of a decision under this paragraph. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

B. The child or the child's family may exercise any rights of appeal available by law, rule or regulation. The departments shall adopt rules providing for an appeal process that must include alternative dispute resolution and, notwithstanding any provision of state law or rule to the contrary, must provide that the commissioner or the commissioner's designee act as the decision maker in any hearing and issue a written decision with findings of fact. This paragraph does not supersede federal law. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

5. Public education program. The departments shall conduct a public education campaign about mental health, the need for mental health care and the availability of care through the program. The campaign must include written materials; media presentations; and a toll-free telephone number for information, referral and access to the program. Public information must include a resource guide that contains information about departmental responsibilities, community-based and residential-based resources for care and services and grievance and appeals procedures. If the department maintains waiting lists for any care or services, information must be provided about the use of the waiting lists and what options are available for care and services.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

6. Rights protections; cultural sensitivity. The program must protect the rights of children to receive care without regard to race, religion, ancestry or national origin, gender, physical or mental disability or sexual orientation.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

7. Rulemaking. The departments shall adopt rules to implement this chapter. Rules in effect for care under the authority of the departments, prior to the adoption of rules pursuant to this subsection, remain in effect until the effective date of the new rules. In addition to the rule-making procedures required under Title 5, chapter 375, prior to adoption of a proposed rule, the department shall provide notice of the content of the proposed rule to the joint standing committee of the Legislature having jurisdiction over health and human services matters. When a rule is adopted, the department shall provide copies of the adopted rule to the joint standing committee of the Legislature having jurisdiction over health and human services matters. Unless otherwise specifically designated, rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[RR 2019, c. 2, Pt. A, §33 (COR).]

8. Spiritual treatment. Nothing in this chapter may replace or limit the right of any child to care in accordance with a recognized religious method of healing, if the care is requested by the child or by the child's family.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

SECTION HISTORY

RR 1997, c. 2, §57 (COR). PL 1997, c. 790, §A1 (NEW). PL 1997, c. 790, §A3 (AFF). PL 2007, c. 286, §11 (AMD). PL 2013, c. 132, §4 (AMD). PL 2019, c. 343, Pt. DDD, §3 (AMD). RR 2019, c. 2, Pt. A, §33 (COR).

§15003. Responsibilities of the departments

In addition to any responsibilities otherwise provided by law, the departments have the following responsibilities. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

1. Agreements between departments. The departments shall enter into agreements that designate the department as responsible for the implementation and operation of the program and specify the other departments' respective responsibilities. The agreements must provide mechanisms for planning, developing and designating lead responsibility for each child's care and for coordinating care and supportive services.

The agreements must include memoranda of agreement that provide for clinical consultation and supervision, delivery of care, staff training and development, program development and finances.

[PL 2019, c. 343, Pt. DDD, §4 (AMD).]

2. Coordination. The department is responsible for coordinating with the other departments to:

A. Establish policies and adopt rules necessary to implement the program, including, but not limited to, policies and rules that provide access to clinically appropriate care; establish eligibility standards; provide for uniform intake and assessment protocols; adopt screening tools for functional impairment pursuant to section 15001, subsection 3, paragraph D; and provide for access to information among departments. Rules regarding functional impairments must be developed and adopted by the departments through rulemaking; [PL 2019, c. 343, Pt. DDD, §5 (AMD).]

B. Develop necessary community-based residential and nonresidential resources for care and supportive services; [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. Provide clinically appropriate care in accordance with the memoranda of agreement executed pursuant to subsection 1, including providing all care provided under the authority of the Department of Health and Human Services through residential and nonresidential resources within the State by July 1, 2004; and [RR 2003, c. 2, §110 (COR).]

D. Monitor available care and supportive services, the extent of any unused capacity and unmet need, the need for increased capacity and the efforts and progress of the departments in addressing unmet needs. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

[PL 2019, c. 343, Pt. DDD, §5 (AMD).]

3. Medicaid rules. The department, after consultation with the Department of Corrections and the Department of Education, shall adopt rules for the provision of mental health care to children under the Medicaid program. The rules must address eligibility and reimbursement for different types of care in different settings, including management of psychiatric hospitalization. Rules in effect prior to the adoption of rules adopted pursuant to this subsection remain in effect until the effective date of the new rules.

Rules for managed care initially adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and when first adopted must be adopted following the procedure for such rules.

[RR 2003, c. 2, §111 (COR).]

4. Statutory responsibilities; services, benefits or entitlements. Nothing in this chapter may be construed to constrain or to impair any departments of this State in carrying out statutorily mandated responsibilities to children and their families or to diminish or to alter any services, benefits or entitlements received by virtue of statutory responsibilities.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

5. Fiscal management. Funds appropriated or allocated for the purposes of this chapter must be used to provide care, to administer the program, to meet departmental responsibilities and to develop resources for children's care in this State as determined necessary through the individualized treatment planning process pursuant to section 15502, subsection 1.

A. When care is provided for a child that costs less than the amount that had been budgeted for that care from funds within the budgets of the Department of Human Services, Medicaid accounts and the Department of Behavioral and Developmental Services, the savings in funds must be reinvested to provide care to children or to develop resources for care in the State. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF); PL 2001, c. 354, §3 (AMD).]

B. The departments shall adopt fiscal information systems that record appropriations, allocations, expenditures and transfers of funds for children's care for all funding sources in a manner that separates funding for children from funding for adults. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. The departments shall shift children's program block grant funding toward the development of a community-based mental health system that includes developing additional community-based services and providing care and services for children who are not eligible for services under the Medicaid program. The departments shall maximize the use of federal funding, the Medicaid program and health coverage for children under the federal Balanced Budget Act of 1997, Public Law 105-133, 111 Stat. 251. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

D. The departments shall work with the Department of Administrative and Financial Services to remove barriers to allow appropriate funds, irrespective of origin or designation, to be combined to provide and to develop the care and support services needed for the program, to use General Fund money to meet needs that are not met by other funds and to leverage state funds to maximize the use of federal funding for each child, including the use of funds under the Adoption Assistance and Child Welfare Act of 1980, Title IV-E of the Social Security Act, 42 United States Code, Sections 670 to 679a (Supplement 1997) and other federal funds for care delivered to children living at home

and in all types of residential placements. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF); PL 2001, c. 354, §3 (AMD).]

6. Management information systems. The departments shall work toward integration of management information systems to administer the program and to perform the functions provided in this subsection.

A. The management information systems must track all types of nonresidential and residential care provided for children and supportive services provided for their families; the extent of met and unmet need for care; the extent of any waiting lists used in the program; behavioral, functional and clinical information; the development of resources; and the costs of the program. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

B. Information on the care of children served through the program must be kept by treatment need, region, care provided, a child's progress and department involvement. Information on children who transfer from care out of the State to care in the State must be kept as part of the total system and must be kept separately. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. The departments shall work toward data collection systems that use compatible data collection tools and procedures and toward care monitoring and evaluation systems. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

7. Evaluation process. The departments shall develop an evaluation process for the program that includes:

A. Internal quality assurance mechanisms, clinical progress and performance indicators and information on costs; [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

B. System capacity and unmet need for care and department progress in responding to excess capacity and unmet need for care; and [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. Auditing as required by subsection 8. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

Copies of all evaluation reports must be provided to the joint standing committee of the Legislature having jurisdiction over health and human services matters upon completion.

The department shall seek funding from grants and other outside sources for external evaluations on program effectiveness and cost effectiveness.

[PL 2019, c. 343, Pt. DDD, §6 (AMD).]

8. Audits; financial reports. The departments shall provide access to their books, records, reports, information and financial papers for federal and state audits for fiscal and programmatic purposes and shall cooperate with all requests for the purposes of auditing. Auditing must be done annually and may be retrospective as determined by the auditor. Reports resulting from audits are public information.

[PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

9. Reports. The department shall report by August 1st each year to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the following matters:

A. The operation of the program, including fiscal status of the accounts and funds from all sources, including blended, pooled and flexible funding, related to children's mental health care in the departments; numbers of children and families served and their residences by county; numbers of children transferred to care in this State and the types of care to which they were transferred; any waiting lists; delays in delivering services; the progress of the departments in developing new resources; appeals procedures requested, held and decided; the results of decided appeals and audits; and evaluations done on the program; [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

B. The experiences of the departments in coordinating program administration and care delivery, including, but not limited to, progress on management information systems; uniform application forms, procedures and assessment tools; case coordination and case management; the use of pooled and blended funding; and initiatives in acquiring and using federal and state funds; and [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

C. Barriers to improved delivery of care to children and their families and the progress of the departments in overcoming those barriers. [PL 1997, c. 790, Pt. A, §1 (NEW); PL 1997, c. 790, Pt. A, §3 (AFF).]

[PL 2019, c. 343, Pt. DDD, §7 (AMD).]

10. Reporting on children's crisis services. Beginning October 31, 2001, the department shall report by the last day of each month on the status of children's crisis services provided or requested under this chapter. The report must cover the number of children in crisis situations for the preceding month and the time it took to resolve the crisis situations and secure appropriate hospital or residential placements or crisis beds or in-home crisis supports for the children. The report must include all children in crisis situations, regardless of the source of payment for hospitalization, residential placement, crisis beds or in-home crisis supports. The report must protect the confidentiality of all persons involved in the situation as required by state or federal law, rule or regulation.

A. In preparing the report, the department shall make a reasonable effort to obtain information from general hospitals, psychiatric hospitals and children's residential programs. The department shall develop a standardized format for the reporting of data on a monthly basis and shall distribute the form to crisis service providers and children's residential programs electronically on the first working day of each month. [PL 2001, c. 439, Pt. KKK, §1 (NEW).]

B. Crisis service providers and children's residential programs funded by the department shall report the information requested on the electronic forms under paragraph A to the department by the 15th of each month. [PL 2001, c. 439, Pt. KKK, §1 (NEW).]

C. If the department determines that there is a substantial need for residential placement, increased hospital resources or community-based crisis services or that action may be required by the Legislature, the department shall highlight those issues in the report. [PL 2001, c. 439, Pt. KKK, §1 (NEW).]

D. The department shall provide the report, which is public information, to the joint standing committee of the Legislature having jurisdiction over health and human services matters. [PL 2019, c. 343, Pt. DDD, §8 (AMD).]

E. The provisions of this section must be accomplished within the department's existing resources. [PL 2001, c. 439, Pt. KKK, §1 (NEW).]

[PL 2019, c. 343, Pt. DDD, §8 (AMD).]

SECTION HISTORY

PL 1997, c. 790, §A1 (NEW). PL 1997, c. 790, §A3 (AFF). PL 2001, c. 354, §3 (AMD). PL 2001, c. 439, §KKK1 (AMD). RR 2003, c. 2, §§110,111 (COR). PL 2003, c. 367, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2019, c. 343, Pt. DDD, §§4-8 (AMD).