



Office of Mental Health

Commissioner's Regulatory Waiver

WAIVER ISSUED TO HELP SERVICE PROVIDERS MEET LOCAL NEEDS WHILE MAINTAINING PROGRAM INTEGRITY.

JUNE 28, 2021

WHEREAS, on April 15, 2021, United States Health and Human Services Secretary Xavier Becerra, continued a public health emergency for the United States in responding to COVID19; initiated by former Secretary Alex M. Azar II on January 31, 2020;

WHEREAS, on March 7, 2020, Governor Andrew M. Cuomo declared a State disaster emergency for the entire State of New York due to the transmission of COVID-19 in the State of New York;

WHEREAS, on February 24, 2021, United States President Joseph Biden, determined that it is necessary to continue the national emergency declared by former President Donald Trump in Proclamation 9994 concerning the COVID-19 pandemic, dated March 13, 2020;

WHEREAS, on June 24, 2021, the State disaster emergency has ended;

WHEREAS, the ramifications from the COVID-19 disaster emergency continue to constitute an extreme emergency within the meaning of Section 501.3 of Title 14 of the NYCRR as it has created a public and mental health crisis which threatens the health and safety of individuals with mental illness in the State of New York and the mental health workforce, as well as the fiscal viability of mental health providers; and

WHEREAS, the Commissioner of the New York State Office of Mental Health (the "Commissioner") recognizes that implications from the COVID-19 disaster emergency and the resulting public mental health crisis, continue to present compliance challenges for regulated entities in meeting their obligations set forth in certain of the regulations promulgated under the New York State Mental Hygiene Law ("Mental Hygiene Law").

NOW, THEREFORE, IT IS HEREBY ORDERED that, pursuant to Section 501.3 of Title 14 of the NYCRR, temporary relief be granted to COVID-19 affected regulated entities from certain requirements within Chapter XIII of Title 14 of the NYCRR that are not otherwise required by State or Federal law, as set forth herein.

The following regulatory requirements shall be waived in order to meet local service needs and serve the best interests of service recipients while maintaining program quality and integrity and ensuring the rights, health and safety of service recipients will not be diminished, therefore. No licensed provider shall be subject to regulatory sanction for noncompliance therewith, where the provider demonstrates good faith compliance with any corresponding guidance issued by the Office of Mental Health. Such regulatory requirements which were waived on June 24, 2021 remain in effect with the following modification superseding the previously amended provision: 1. 14 NYCRR Part 596 is waived with the exception of the following provisions; 596.1(b)(c), 596.2, 596.3(b); 596.4(a)-(p); (r) waive provisions which restrict the use of audio only technologies; 596.5(b),(f), 596.6, (a)(1)(ii)-(vi)(a); (a)(2)-(10); (a)(11)((i) and (ii); 596.6(b)(2)(I)-(iv); (b)(3)-(6); (b)(8)-(11); (c); 596.7(a)-(c); (d)(2)-(3); (e)-(g); 596.8.

This Order **shall be deemed effective as of June 25, 2021**, and shall remain in effect for 60 days until stayed, modified, suspended or terminated by the Commissioner or, where applicable modified service provision or billing requirements have also received approval from the Centers of Medicare and Medicaid Services, when such federal financial participation ends prior to the conclusion of the 60-day period.

Witness, my hand and official seal of the New York State Office of Mental Health at the City of Albany, New York, this 28th day of June in the Year two thousand and twenty-one.



Ann Marie T. Sullivan, MD
Commissioner of the Office of Mental Health