

PART 512
Personalized Recovery Oriented Services

(Statutory authority: Mental Hygiene Law §§ 7.09[b], 31.04[a], 41.05, 43.02[a]-[c]; and
Social Services Law, §§ 364[3], 364-a[1])

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Section 512.1. Background and intent

(a) This Part establishes certification standards for Personalized Recovery-Oriented Services (PROS) programs. The purpose of PROS programs is to assist individuals in recovering from the disabling effects of mental illness.

(b) The Office of Mental Health shall issue operating certificates to programs that meet the standards set forth in this Part. Certification in and of itself does not confer eligibility to receive financial support from any governmental source. In order to qualify for reimbursement under the medical assistance program, PROS programs must comply with the standards specified in section 512.11 of this Part.

(c) In order to be eligible for payments pursuant to Title 11 of Article 5 of the Social Services Law, a PROS program must be certified to provide services by the Office of Mental Health in addition to meeting the requirements of Title XIX of the Social Security Act.

(d) This Part establishes rates of payment made by government agencies pursuant to Title 11 of Article 5 of the Social Services Law for the participation of individuals in an eligible PROS program.

(e) The rates of payment established pursuant to this Part are intended to be adequate to meet the costs of an efficiently and economically operated program.

Section 512.2. Legal base.

(a) Sections 7.09(b) and 31.04(a) of the Mental Hygiene Law give the Commissioner the power and responsibility to plan, establish and evaluate programs and services for the benefit of individuals with mental illness, and to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

(b) Section 41.05 of the Mental Hygiene Law provides that a local governmental unit shall direct and administer a local comprehensive planning process for its geographic area in which all providers of service shall participate and cooperate through the development of integrated systems of care and treatment for people with mental illness.

(c) Subdivision (a) of Section 43.02 of the Mental Hygiene Law provides that payments under the medical assistance program for programs approved by the Office of Mental Health shall be at rates certified by the Commissioner of Mental Health and approved by the Director of the Division of the Budget.

(d) Subdivision (b) of Section 43.02 of the Mental Hygiene Law gives the Commissioner authority to request from operators of facilities certified by the Office of Mental Health such financial, statistical and program information as the Commissioner may determine to be necessary.

(e) Subdivision (c) of Section 43.02 of the Mental Hygiene Law gives the Commissioner of Mental Health the authority to adopt rules and regulations relating to methodologies used in establishment of schedules of rates for payment.

(f) Sections 364(3) and 364-a(1) of the Social Services Law give the Office of Mental Health responsibility for establishing and maintaining standards for medical care and services in facilities under its jurisdiction, in accordance with cooperative arrangements with the Department of Health.

Section 512.3. Applicability

This Part shall apply to any provider of service that has been certified to operate or proposes to operate a PROS program that must be certified by the Office of Mental Health.

Section 512.4. Definitions

(a) *Admission Date* is the day that the PROS program completes and submits a PROS registration form on behalf of a PROS participant, using the registration system approved by the Office.

(b) *Adult* means an individual 18 years of age or older.

(c) *Average Attendance* means the number of individuals, on average, receiving services from an individual PROS provider at any given time.

- (d) *Capacity* means a provider's approved average attendance.
- (e) *Carved-out Services* means those special care services that are not included in the benefit package of a managed care provider, for all managed care enrollees, regardless of aid category.
- (f) *Clinical Staff* means all staff members, including any recipient employees, who provide services directly to individuals admitted to PROS programs or their collaterals. Students and trainees may qualify if they are participating in a program leading to a degree or certificate appropriate to the goals, objectives and services of the PROS program, are supervised in accordance with the policies governing the training program, and are approved as part of the staffing plan by the Office of Mental Health.
- (g) *Collateral* means a person who is:
- (1) a significant other or member of the PROS participant's family or household, academic, workplace or residential setting, who regularly interacts with the individual and is directly affected by, or has the capability of affecting, his or her condition; and
 - (2) identified in the Individualized Recovery Plan, and approved by the individual, as having a role in services and/or is identified in the pre-admission notes as being necessary for participation in the evaluation and assessment of the individual prior to admission; and
 - (3) not a staff member of the PROS program or any other mental health service provider except when the staff member is participating in services in his or her role as the recipient's collateral, and not in his or her staff member role.
- (h) *Commissioner* means the Commissioner of the New York State Office of Mental Health.
- (i) *Comprehensive PROS Program*, unless otherwise specified, means a Comprehensive PROS program with Clinical Treatment or a Comprehensive PROS program without Clinical Treatment.
- (j) *Comprehensive Psychiatric Rehabilitation Assessment* means the process of identifying the skills and supports necessary for an individual to be successful in his or her chosen life roles. Such assessment is intended to focus on the individual's living, learning, working, parenting and social goals, and to identify barriers, due to the individual's mental illness, that are preventing achievement of the individual's recovery goals. The assessment should also identify the individual's strengths that can be utilized in the achievement of his or her recovery goals.
- (k) *Designated Mental Illness Diagnosis* means a DSM-IV diagnosis (or ICD-9-CM equivalent) other than:
- (i) alcohol or drug disorders;
 - (ii) developmental disabilities;
 - (iii) organic brain syndromes; or
 - (iv) social conditions (V-Codes).

ICD-9-CM categories and codes that do not have an equivalent in DSM-IV are not included as designated mental illness diagnoses.

(l) *Due Diligence* means the exercise of reasonable and appropriate efforts to comply with the standards set forth in this Part.

(m) *Evidence-Based Practice* means an intervention for which there is consistent, scientific evidence showing that it improves recipient outcomes. Those services identified in section 512.5 of this Part that are most closely associated with evidence-based practices, as of the effective date of this Part, include the following: family psychoeducation; integrated treatment for co-occurring mental health and substance abuse disorders; medication management; ongoing rehabilitation and support (related to the evidence-based practice of supported employment); and wellness self-management.

(n) *Face-to-Face* means contact between a PROS participant, or his or her collateral, and a member of the PROS clinical staff, at a specific location, for the purpose of providing a medically necessary service for the PROS participant's benefit.

(o) *Functional Disability* means a deficit that rises to the level of impairment in one or more of the following areas: self-care; activities of daily living; interpersonal relations; or adaptation to change or task performance in work or work-like settings.

(p) *Licensed Practitioner of the Healing Arts (LPHA)* means the following professional staff, as defined in this Part:

- (1) nurse practitioner;
- (2) physician;
- (3) physician's assistant;
- (4) psychiatric nurse practitioner;
- (5) psychiatrist;
- (6) psychologist;
- (7) registered professional nurse; and
- (8) social worker.

(q) *Local Governmental Unit (LGU)* means the unit of government given the authority in accordance with Article 41 of the Mental Hygiene Law to plan and provide for local or unified services.

(r) *Month* means any time between and including the first and last days of any calendar month in a given year.

(s) *Monthly Caseload* means the unduplicated number of individuals admitted to and receiving services from the PROS program in a typical month. The monthly caseload range will be specified in the PROS operating certificate transmittal letter.

(t) *NYISER* means the New York Interagency Supported Employment Report, which is an interagency data reporting system that includes person-specific information regarding supported employment services.

(u) *Office* means the New York State Office of Mental Health (OMH).

(v) *Off-Site*, for purposes of providing PROS services, means any clinically appropriate location in the community, other than a licensed PROS site, where an individual may receive services.

(w) *Off-Site Program Participation* means the duration of time spent in the delivery of face-to-face services to a PROS participant or collateral at an off-site location.

(x) *On-Site Program Participation* means the duration of time that a PROS participant or collateral is in attendance at the PROS program on a given day.

(1) Scheduled meal periods or planned recreational activities that are not specifically designated as medically necessary in the individual's Individualized Recovery Plan shall be excluded from the calculation of program participation.

(2) Time spent in the program by a collateral shall not be considered on-site program participation if the PROS participant is simultaneously being credited with program participation on a given day.

(y) *Pre-Admission Status* means the time period that begins when an individual first receives a PROS pre-admission service, and ends on the individual's PROS admission date.

(z) *Professional Staff* means members of the clinical staff who are qualified by credentials, training and experience to provide supervision and direct service related to the care or treatment of persons with a designated mental illness diagnosis, and shall include the following:

(1) *creative arts therapist*, which means an individual who is currently licensed as a creative arts therapist by the New York State Education Department or who has a master's degree in a mental health field from a program approved by the New York State Education Department, and registration or certification by the American Art Therapy Association, American Dance Therapy Association, National Association of Music Therapy or American Association for Music Therapy;

(2) *credentialed alcoholism and substance abuse counselor*, which means an individual who is currently credentialed by the New York State Office of Alcoholism and Substance Abuse Services in accordance with Part 853 of this Title;

(3) *marriage and family therapist*, which means an individual who is currently licensed as a marriage and family therapist by the New York State Education Department;

(4) *mental health counselor*, which means an individual who is currently licensed as a mental health counselor by the New York State Education Department;

(5) *nurse practitioner*, which means an individual who is currently certified as a nurse practitioner by the New York State Education Department;

(6) *nurse practitioner in psychiatry*, which means an individual who is currently certified as a psychiatric nurse practitioner by the New York State Education Department. For purposes of this Part, nurse practitioner in psychiatry shall have the same meaning as psychiatric nurse practitioner, as defined by the New York State Education Department;

(7) *occupational therapist*, which means an individual who is currently licensed as an occupational therapist by the New York State Education Department;

(8) *pastoral counselor*, which means an individual who has a master's degree or equivalent in pastoral counseling or is a Fellow of the American Association of Pastoral Counselors;

(9) *physician*, which means an individual who is currently licensed as a physician by the New York State Education Department;

(10) *physician's assistant*, which means an individual who is currently registered as a physician assistant or a specialist's assistant by the New York State Education Department;

(11) *psychiatrist*, which means an individual who is currently licensed as a physician by the New York State Education Department and who is certified by, or eligible to be certified by, the American Board of Psychiatry and Neurology;

(12) *psychoanalyst*, which means an individual who is currently licensed as a psychoanalyst by the New York State Education Department;

(13) *psychologist*, which means an individual who is currently licensed as a psychologist by the New York State Education Department. Individuals with at least a master's degree in psychology who do not meet this definition may not be considered licensed practitioners of the healing arts, and may not be assigned supervisory responsibility. However, individuals who have obtained at least a master's degree in psychology may be considered professional staff for the purposes of calculating professional staff and full-time equivalent professional staff;

(14) *registered professional nurse*, which means an individual who is currently licensed as a registered professional nurse by the New York State Education Department;

(15) *rehabilitation counselor*, which means an individual who has either a master's degree in rehabilitation counseling from a program approved by the New York State Education Department or current certification by the Commission on Rehabilitation Counselor Certification;

(16) *social worker*, which means an individual who is currently licensed as a master social

worker or clinical social worker by the New York State Education Department. Social workers who do not meet this definition may not be considered licensed practitioners of the healing arts. However, social workers who have obtained at least a master's degree in social work from a program approved by the New York State Education Department may be considered professional staff for the purposes of calculating professional staff and full-time equivalent professional staff;

(17) *therapeutic recreation specialist*, which means an individual who has either a master's degree in therapeutic recreation from a program approved by the New York State Education Department or registration as a therapeutic recreation specialist by the National Therapeutic Recreation Society; and

(18) other staff may be included as professional staff with the prior written approval of the Office, when such individuals have specified training or experience in the care or treatment of individuals diagnosed with mental illness. Such staff may include, but are not limited to, persons who are registered or certified by the United States Psychiatric Rehabilitation Association (USPRA).

(aa) *Program Participation* means a combination of on-site program participation and off-site program participation for a specific individual on a given day.

(ab) *PROS Program or PROS Provider*, unless otherwise specified, means a Comprehensive PROS program or a Limited License PROS program.

(ac) *PROS Unit* is determined by a combination of on-site and off-site program participation and service frequency.

(ad) *Provider of Service* means the entity that is legally responsible for the operation of a PROS program. Such entity may be an individual, partnership, association, limited liability corporation, or corporation.

(ae) *Recipient Attestation Form* is a form provided to a recipient by a PROS program for him or her to sign when he or she has chosen to participate in one or more components of the PROS program.

(af) *Recipient Employee* means an individual who is financially compensated by a provider for providing clinical or non-clinical PROS services in the same program where the individual also receives PROS services.

(ag) *Registration* is the process by which individuals are assigned to PROS programs and specific PROS components. The programs with which individuals are registered are recognized by the Office as authorized providers of PROS services for those individuals.

(ah) *Registration Date* means the first calendar month for which all PROS components and monthly base rate levels can be billed for Medicaid-eligible individuals.

(ai) *Relapse Prevention Plan* means the written identification of a series of actions to be taken in order to prevent decompensation. The overall goal of this plan is to prevent decompensation,

and to respond to warning signs early and effectively in order to minimize the likelihood of hospitalization.

(aj) *Site* means a location where PROS services are provided on a regular and routine basis, and which is authorized by a PROS operating certificate.

(ak) *Sponsor* means the provider of service or an entity that substantially controls or has the ability to substantially control the provider of service. For the purpose of this Part, factors used to determine whether there is substantial control shall include, but are not limited to, the following:

- (1) the right to appoint and remove directors or officers;
- (2) the right to approve bylaws or articles of incorporation;
- (3) the right to approve strategic or financial plans for a provider of service; or
- (4) the right to approve operating or capital budgets for a provider of service.

Section 512.5. Service Categories and Requirements

Each of the following services, offered by PROS providers in accordance with their certification category, are provided face-to-face by PROS staff members and are provided to assist individuals to overcome the barriers, caused by their mental illness, that are preventing them from achieving their chosen goals.

(a) *Assessment* is a service designed to review and determine an individual's level of functioning, the past benefits of participating in mental health services, and the ability to function in specific life roles. In addition, the assessment service should identify the individual's strengths as well as challenges and barriers resulting from his or her psychiatric condition. This service involves a comprehensive and continuous process, conducted within the context of the individual's self-identified needs, goals, and ethnic, religious and cultural identities.

(b) *Basic Living Skills Training* is a service designed to improve an individual's ability to perform the basic skills necessary to achieve maximum independence and acceptable community behaviors that are critical to his or her recovery. This service focuses on the acquisition of skills, as well as strategies for appropriate use of the skill, utilizing teaching interventions such as motivational, educational and cognitive-behavioral techniques. The service may include opportunities to practice, observe, reinforce and improve the individual's skill performance. The topics which may be covered include, but are not limited to: grooming and personal hygiene, nutrition, homemaking, building relationships, childcare, transportation, use of community resources, and engaging in social interactions.

(c) *Benefits and Financial Management* is a service designed to support an individual's functioning in the community through understanding and skill in handling his or her financial resources. The instruction may include counseling on budgeting, income and benefits, including incentives for returning to work, as well as basic counseling on income maintenance, eligibility for benefits from relevant sources, and determination of the need for plans for additional

support and assistance in managing personal finances.

(d) *Clinical Counseling and Therapy* is a service designed to provide goal-oriented verbal counseling or therapy, including individual, group and family counseling or therapy, for the purpose of addressing the emotional, cognitive and behavioral symptoms of a mental health disorder or for engaging, motivating and stabilizing persons with a co-occurring mental health and substance abuse (including alcohol) disorder, and the related effects on role functioning. Such service may also include cognitive behavioral therapy.

(e) *Cognitive Remediation* is a set of techniques and interventions, such as drills, activities and exercises, designed to improve an individual's functioning by improving the cognitive skill that is the target of the remediation task. These skills include, but are not limited to: the ability to pay attention, remember, process information, solve problems, organize and reorganize information, communicate and act upon information. Cognitive remediation techniques work to improve mental capabilities necessary to learn academic subject matter, and more generally to function in daily life. Cognitive remediation is an optional PROS service, subject to prior review and written approval of the Office.

(f) *Community Living Exploration* is a service designed to help an individual understand the demands of specific community life roles, in order to make decisions regarding participation in those roles. Community living exploration services can also be used to help motivate individuals who are not yet exhibiting active interest in more integrated community life roles, by increasing their knowledge of opportunities available in the community. Topics may include, but are not limited to: options for satisfactory experiences with living environments, work or career opportunities, educational opportunities, opportunities to connect to culturally-based community services, and resources for use of leisure time. It is expected that, to the extent possible, these services will be developed in natural community environments.

(g) *Crisis Intervention* is a service designed to safely and respectfully de-escalate situations of acute distress or agitation which require immediate attention. Such service may include, but is not limited to, calming techniques to interrupt escalating behavior.

(h) *Engagement* is a service designed to reach out to individuals over time for the purpose of fostering a commitment on the part of an individual to enter into therapeutic relationships supportive of the individual's recovery. This service may include, but is not limited to, activities such as initial contacts with potential program participants, as well as ongoing efforts to engage individuals to participate in program services.

(i) *Family Psychoeducation* is a service designed to provide information, clinical guidance and support to collaterals and individuals admitted to the PROS program when desired and appropriate, for the purpose of assisting and enhancing the capacity of a collateral to facilitate an individual's recovery. Such service includes, but is not limited to: education about mental illness and its treatment, information on community resources, guidance on how to manage or cope with difficult behaviors, emotional support and counseling, crisis planning, and problem-solving skills training.

(j) *Health Assessment* is a service designed to gather data concerning an individual's medical history and any current signs and symptoms, and assess such data to determine his or her

physical health status and need for referral. The assessment of the data shall be done by a nurse practitioner, psychiatric nurse practitioner, physician, physician's assistant, psychiatrist or registered professional nurse. Where indicated, this service shall include screening for metabolic syndrome, diabetes, and hypertension on a periodic basis.

(k) *Individualized Recovery Planning* is a service designed to assist an individual in the ongoing development, review and modification of a course of care that supports his or her identified path to recovery. The course of action is based on an assessment process and the individual's personal preferences and desired life roles. Such course of care is reflected in an Individualized Recovery Plan (IRP), which includes the identification of medically necessary services and which supports the individual's goals and desires. The Individualized Recovery Planning process also includes the development of a relapse prevention plan and, when appropriate, an advance directive. The service may also involve activities designed to help identify and develop compensatory supports necessary to assist an individual during his or her recovery process.

(l) *Information and Education Regarding Self-Help* is a service designed to encourage individuals to participate in self-help and mutual aid groups. The service is designed to help an individual understand what self-help resources are available in the community and how to benefit from participating in them. The service may be conducted by people who have common experiences, and is intended to help the individual to learn how to share personal experiences with others who have had a common experience, to learn about the variety of available self-help groups, and to aid the individual in accessing the self-help options of his or her choice.

(m) *Integrated Treatment for Co-Occurring Mental Health and Substance Abuse Disorders* is a service designed to simultaneously address the mental health and substance abuse needs of persons with co-occurring disorders. Such service includes, but is not limited to, motivational, cognitive-behavioral and harm reduction approaches, wherein practitioners coordinate care with appropriate substance abuse providers when it is determined that the co-occurring disorder is acute or serious, and the recipient is ready to accept related treatment.

(n) *Intensive Rehabilitation Goal Acquisition* is a service designed to assist an individual in identifying, attaining and retaining personally meaningful goals that will help the person to resume normal functioning in adult life roles. This service should be used to provide active support once an individual has made a commitment to achieving a new role, such as returning to work or school, returning to adult care giving or parenting roles, resuming roles as a spouse or significant other, obtaining a desired housing arrangement, and resuming a role as a community volunteer. Due to the urgency associated with the individual's readiness to attain and maintain a preferred life role, this service is not normally a long-term intervention.

(o) *Intensive Relapse Prevention* is a service designed to address an exacerbation of acute symptoms, or manage existing symptoms that are not responsive to the current service formulation. This may include the provision of targeted, intensive interventions necessary to address immediate risks such as relapse, hospitalization, loss of housing, or involvement with the criminal justice system. This service may also include the execution of a series of predetermined steps identified in the relapse prevention plan.

(p) *Medication Management* is a service designed to prescribe or administer medication with the highest efficacy and lowest toxicity in treating the primary symptoms of an individual's

psychiatric condition. This service is intended to include medication trials which are adequate in dose and duration, as well as assessments of the appropriateness of the individual's existing medication regimen through record reviews, ongoing monitoring, and consultation with the PROS participant and/or collateral. The purpose of such consultation is to determine personal preferences, as well as past and present experiences with medication, including related efficacy, side effects and compliance. Medication management may include monitoring the side effects of prescribed medications, including, but not limited to, extrapyramidal, cardiac and metabolic side effects, and may include providing individuals with information concerning the effects, benefits, risks and possible side effects of a proposed course of medication.

(q) *Ongoing Rehabilitation and Support* is a service designed to provide ongoing counseling, mentoring, advocacy and support for the purpose of sustaining an individual's role in competitive, integrated employment. Such service does not include task-specific job training.

(r) *Pre-Admission Screening* is a service designed to include the initial process of contacting, engaging, interviewing and evaluating an individual to determine his or her need and desire for PROS services. The result of pre-admission screening is a determination of the individual's desire to participate in services and the program's appropriateness to meet the needs of the individual.

(s) *Psychiatric assessment* is a service designed to gather data concerning an individual's psychiatric history and current mental health symptoms, assess such data for determination of the individual's current mental health status, and identify the need for clinical treatment services. Assessment of the data shall be done by a psychiatrist or psychiatric nurse practitioner.

(t) *Structured Skill Development and Support* is a service designed to assist individuals in developing instrumental skills for performing normative life roles associated with group membership, work, education, parenting or living environments. The focus of structured skill development is to develop skills through a process of teaching, practice, and feedback in community environments replicated at the program site. The modality for teaching these skills is a combination of individual, group and structured activities. It is often provided in structured club-like settings such as a work-ordered day or an activity-center format, where staff employ supportive counseling, mentoring and skill development techniques to assist the individual in completion of essential tasks.

(u) *Symptom Monitoring* is a service designed to identify the ongoing effects of an individual's course of care. This service involves the continuous process of monitoring a recipient's symptoms of mental illness, as identified in his or her Individualized Recovery Plan, and his or her response to treatment, within the context of other support and rehabilitation services. Such service may include consultation with identified collaterals. If this service is provided by a staff person other than a psychiatrist, nurse or nurse practitioner, it must include communication of observed symptoms and treatment responses to the physician or nurse.

(v) *Wellness self-management* (also known as *illness management and recovery*) is a service designed to develop or improve personal coping strategies, prevent relapse, and promote recovery. Such services may be provided to recipients and/or collaterals, and may include, but are not limited to:

(1) *coping skills training* which means teaching individuals strategies to address symptoms, manage stress and reduce exposure and vulnerability to stress;

(2) *disability education* which means instruction on the facts concerning mental illness and the potential for recovery. The intent of this service is to give individuals admitted to PROS programs and collaterals hope as well as practical information on prevention and recovery practices, including evidence-based practices;

(3) *dual disorder education* which means providing individuals admitted to PROS programs and/or collaterals with basic information on the nature of substance abuse disorders and how they relate to the symptoms and experiences of mental illness;

(4) *medication education and self-management* which means providing individuals admitted to PROS programs or collaterals with information on the individual's medications, including related efficacy, side effects and compliance issues. Individuals are supported in managing their medications and in learning about the effects of the medication on their mental health condition and in managing the side effects of medication through healthy life style changes such as smoking cessation, nutrition, and weight loss;

(5) *problem-solving skills training* which means a series of learning activities designed to assist individuals admitted to PROS programs and collaterals develop effective solutions for stressful responses to routine life situations. These activities may include, but are not limited to: role playing exercises, homework assignments or the mastery of specific principles and techniques; and

(6) *relapse prevention planning* which means a process to engage individuals admitted to PROS programs and collaterals in understanding factors which may trigger a recurrence of severe symptoms of mental illness and ways to cope with the potential for recurrence. Planning activities may include the development of an advance directives document and specific instructions on what steps need to be taken in the event of a relapse.

Section 512.6. Certification

(a) A provider of service intending to operate a PROS program must obtain an initial operating certificate issued by the Office in accordance with Part 551 of this Title. Renewals of such operating certificates shall be issued for terms of up to three years.

(b) PROS programs shall be licensed as one of the following program types:

(1) Comprehensive PROS:

(i) with Clinical Treatment; or

(ii) without Clinical Treatment; or

(2) Limited License PROS.

(c) It is the preference of the Office to establish fully integrated Comprehensive PROS programs.

However, applications for Limited License PROS programs may be considered in cases where there is a need for the program identified by the local governmental unit and the capacity of the provider is not sufficient to deliver a Comprehensive PROS.

(d) Each PROS program shall be authorized by a discrete operating certificate. In addition, if a PROS program is operating at multiple sites, each site shall be authorized by a discrete operating certificate. For each site, the operating certificate shall specify:

- (1) the program type to be operated;
- (2) the location of the program;
- (3) the hours of operation of the program;
- (4) the program's capacity;
- (5) the population to be served; and
- (6) the term of the operating certificate.

(e) The initial operating certificate issued pursuant to subdivision (a) of this section shall be for a term of up to one year. The provider's capacity and monthly caseload identified in the initial operating certificate shall be expressed by a numeric range. At a time determined by the Office, but not less than one year from the date of initial licensure, the capacity and monthly caseload identified in a renewal of the initial operating certificate shall be in accordance with the provider's actual capacity and monthly caseload, as determined by the Office, at that time.

- (1) A provider shall not exceed the monthly caseload range identified in its operating certificate unless the provider receives approval pursuant to Part 551 of this Title.
- (2) A provider shall not exceed the capacity range identified in its operating certificate by more than 15 percent, on a regular or routine basis, unless the provider receives approval pursuant to Part 551 of this Title.

(f) A PROS provider may offer services identified in section 512.7(b) of this Part pursuant to an agreement with another provider. Such agreements require prior approval of the Office as clinical services contracts or management contracts in accordance with Part 551 of this Title.

(g) Establishment of a new PROS site or changes to the operating certificate, other than changes in the hours of operation as described in subdivision (h) of this section, require prior approval of the Office in accordance with Part 551 of this Title. Such changes include, but are not limited to, the following:

- (1) changes in the physical space or location, use of additional sites, or change in the provider's capacity;
- (2) termination of the program; or

(3) changes in the powers or purposes set forth in the certificate of incorporation of the provider of service.

(h) Changes in the hours of operation of a program may be made upon approval of the Office, in consultation with the local governmental unit.

(i) No PROS program site shall be located within the operating space of a residential program licensed by the Office.

(j) An operating certificate may be limited, suspended or revoked by the Office pursuant to Part 573 of this Title. The operating certificate is the property of the Office and as such shall be returned to the Office if it should be revoked.

(k) The Commissioner, in consultation with the local governmental unit, may reduce a program's capacity and monthly caseload when it is determined that such program is not providing services at a reasonable level, or is not providing reasonable access to services in accordance with section 512.7(c)(6) of this Part. Such reduced capacity and monthly caseload may be reallocated, to another provider of service certified pursuant to this Part, in accordance with Parts 551 and 573 of this Title.

(l) The provider of service shall frame and display the operating certificate within the PROS program site in a conspicuous place that is readily accessible to the public.

(m) The Commissioner is authorized to make inspections and examine all records of PROS programs. Such examination may include, but is not limited to, any medical, service, financial or contractual record. The provider of service shall cooperate with the Office during any such inspection or examination.

(n) The Commissioner shall have the authority to designate and approve demonstration projects for purposes of examining innovative program and administrative configurations, regulatory flexibility, and alternative funding methodologies.

(o) No renewal of an operating certificate pursuant to this Part and Part 551 of this Title shall be issued in the absence of an executed provider agreement developed in accordance with section 512.14(b) of this Part.

Section 512.7. Program Operations

(a) Program Purpose

(1) The purpose of PROS programs is to assist individuals in recovering from the disabling effects of mental illness through the coordinated delivery of rehabilitation, treatment and support services.

(i) PROS programs shall offer individuals who are recovering from mental illness a customized array of recovery-oriented services, both in traditional program settings and in off-site locations where such individuals live, learn, work or socialize.

(ii) PROS programs shall establish a therapeutic environment which fosters awareness, hopefulness and motivation for recovery, and which supports a harm reduction philosophy.

(2) Depending upon program configuration and licensure category, PROS programs will include the following components: Community Rehabilitation and Support (CRS); Intensive Rehabilitation (IR); Ongoing Rehabilitation and Support (ORS); and Clinical Treatment.

(i) The CRS component shall be designed to engage and assist individuals in managing their illness and in restoring those skills and supports necessary to live in the community.

(ii) The IR component shall be designed to intensively assist individuals in attaining specific life roles such as those related to competitive employment, independent housing and school. The IR component may also be used to provide targeted interventions to reduce the risk of hospitalization or relapse, loss of housing or involvement with the criminal justice system, and to help individuals manage their symptoms.

(iii) The ORS component shall be designed to assist individuals in managing symptoms and overcoming functional impairments as they integrate into a competitive workplace. ORS interventions shall focus on supporting individuals in maintaining competitive integrated employment. Such services shall be provided off-site.

(iv) The Clinical Treatment component shall be designed to help stabilize, ameliorate and control an individual's symptoms of mental illness. Clinical Treatment interventions must be highly integrated into the support and rehabilitation focus of the PROS program. The frequency and intensity of Clinical Treatment services shall be commensurate with the needs of the target population.

(3) A Comprehensive PROS program shall offer, at a minimum, CRS, IR and ORS components. Such programs may be licensed to also offer Clinical Treatment.

(4) A Limited License PROS program shall offer IR and ORS components.

(5) All PROS providers shall establish mechanisms regarding the coordination of rehabilitation, treatment and support services for individuals, including linkage agreements with other providers as appropriate. These mechanisms shall address:

(i) coordination among any of the PROS components as specified in paragraph (2) of this subdivision that are delivered by the same PROS provider;

(ii) coordination among any of the PROS components as specified in paragraph (2) of this subdivision which are delivered by multiple PROS providers; and

(iii) coordination of PROS services with other service providers.

(b) Components and Services

(1) All PROS programs, regardless of certification category, shall offer the following services:

- (i) individualized recovery planning services; and
- (ii) pre-admission screening services.

(2) A CRS component shall include, at a minimum, the following services:

- (i) assessment;
- (ii) basic living skills training;
- (iii) benefits and financial management;
- (iv) community living exploration;
- (v) crisis intervention;
- (vi) engagement;
- (vii) individualized recovery planning;
- (viii) information and education regarding self-help;
- (ix) structured skill development and support; and
- (x) wellness self-management.

(3) When CRS services are provided in a group format, such group size shall not, on a regular and routine basis, exceed 12 members. However, on an occasional basis, group sizes of between 13 and 24 members are permissible if the group is co-facilitated by at least two staff members, and there is documentation that the expanded group size is clinically appropriate for the service being provided. Pursuant to section 512.11(b)(13) of this Part, a PROS program may, within the specified limits, still use the service to satisfy the service frequency requirement of paragraph 512.11(b)(11) for some group participants.

(4) An IR component, as part of a Comprehensive PROS program, shall include, at a minimum, the following services:

- (i) family psychoeducation;
- (ii) integrated treatment for co-occurring mental health and substance abuse disorders;
- (iii) intensive rehabilitation goal acquisition; and
- (iv) intensive relapse prevention.

(5) In order to receive Medicaid-reimbursed integrated treatment for co-occurring mental health and substance abuse disorders as part of the IR component, the individual must also be receiving Clinical Treatment services from the same PROS provider.

(6) An IR component, as part of a Limited License PROS program, shall include, at a minimum, intensive rehabilitation goal acquisition services. Such services shall be limited to employment and education-oriented goals.

(7) When IR services are provided in a group format, such group size shall not exceed, on a regular and routine basis, eight members. However, Family Psychoeducation services provided in a group format may include up to 16 group members, if the group is co-facilitated by at least two staff members. Pursuant to section 512.11(c)(2)(ii) and (iii) of this Part, a PROS program may, within the specified limits, allow group sizes to exceed eight members, or 16 members for Family Psychoeducation groups, on an occasional basis, and still use the service to satisfy the service frequency requirement of section 512.11(b)(11) of this Part or the IR service requirement of section 512.11(c)(2)(i) of this Part for some group participants.

(8) An ORS component shall include, at a minimum, ongoing rehabilitation and support services.

(9) Clinical Treatment is intended to enhance the array of available services offered within other PROS program components. The following services shall be available:

(i) clinical counseling and therapy;

(ii) health assessment;

(iii) medication management;

(iv) symptom monitoring; and

(v) psychiatric assessment.

(10) Providers offering medication management services shall consider the full range of atypical antipsychotic medications, available at the time when prescribing medication. Such providers shall conduct, or arrange for, any associated blood analysis, when so indicated.

(11) Any additional services delivered by a PROS program that are clinically appropriate shall be considered as optional and shall be subject to prior review and written approval of the Office. Such services may include, but are not limited to, cognitive remediation services.

(c) Admission and Registration

(1) Admission criteria must conform to applicable state and federal law governing non-discrimination. Admission criteria shall not exclude individuals because of past histories of incarceration or substance abuse. A provider of service shall not deny access to services by an otherwise appropriate individual solely on the basis of multiple diagnoses or a diagnosis of HIV infection, AIDS, or AIDS-related complex.

(2) The program's admission process, including any criteria governing participation in the program, shall be clearly described and available for review by participants, their families or

significant others.

(3) Providers of service shall not use coercion in regard to program admission or discharge, referrals to other programs, or the level of service provision, provided that nothing in this paragraph shall be interpreted to affect or otherwise impact the delivery of services to an individual under a court order issued pursuant to section 9.60 of the Mental Hygiene Law.

(4) Prior to admission to a PROS program, pre-admission screening services may be provided. During such time, the individual shall be considered to be in pre-admission status.

(5) To be eligible for admission to a PROS program, a person must:

(i) be 18 years of age or older;

(ii) have a designated mental illness diagnosis;

(iii) have a functional disability due to the severity and duration of mental illness; and

(iv) be recommended for admission by a licensed practitioner of the healing arts (LPHA). The recommendation must be in writing, must be signed and dated, and must include an explanation of the medical need for PROS services.

(a) If the LPHA making the recommendation is not a member of the PROS program staff, the recommendation must include the LPHA license number.

(b) If the LPHA making the recommendation is a member of the PROS program staff, the recommendation must include the identification of the PROS components that will initially meet the individual's needs and the LPHA must sign the screening and admission note.

(6) Admission of an eligible individual to a PROS program shall be based upon service availability, and not based upon an individual's ability to pay for such services.

(7) Upon a decision to admit an individual to a PROS program, a screening and admission note shall be written. Such note shall include the following:

(i) reason for admission;

(ii) primary service-related needs and services to meet those needs;

(iii) admission diagnosis, and

(iv) signature of a professional member of the PROS staff.

(8) When admission is not indicated, a notation shall be made of the following:

(i) the reason for not admitting the individual; and

(ii) any referrals made to other programs or services.

(9) Upon a decision to admit an individual to a PROS program, a Recipient Attestation Form shall be completed. Such form shall be dated and signed by the individual, which indicates his or her choice to participate in the PROS program and specified program components.

(10) Upon admission of an individual and the completion of the Recipient Attestation Form, the PROS program shall complete and submit a PROS registration form, using the registration system approved by the Office.

(i) Such registration process must include the identification of the specific PROS program components in which the individual will be participating.

(ii) Individuals may register in multiple PROS programs for unduplicated components of service. However, in no event shall an individual be registered for Clinical Treatment only.

(11) The PROS admission date for an individual shall be the date that the PROS program submits a completed registration pursuant to paragraph (10) of this subdivision.

(12) Upon confirmation of acceptance of the registration request on behalf of an individual, such individual shall be considered registered in the PROS program, effective on the date provided by the Office. Individuals who are registered in a PROS program are not restricted to the limitations of pre-admission billing pursuant to section 512.11(e) of this Part.

(13) If a registration request on behalf of an individual is denied, such individual shall be discharged from the PROS program. The discharge summary shall identify any referrals made to other programs or services.

(d) Staffing

(1) A PROS provider shall continuously employ an adequate number and appropriate mix of clinical staff consistent with the objectives of the program and the intended outcomes. Such staff may include persons who are also recipients of service from a PROS program, subject to the requirements of paragraph (10) of this subdivision.

(2) PROS providers shall maintain an adequate and appropriate number of professional staff relative to the size of the clinical staff.

(i) A Comprehensive PROS provider shall be deemed to have met such standard if at least 40 percent of the total clinical staff full-time equivalents (FTEs) are represented by professional staff.

(ii) A Limited License PROS program shall be deemed to have met such standard if at least 20 percent of the total clinical staff FTEs are represented by professional staff.

(3) For the purpose of calculating professional staff ratios, a provider may include staff credentialed by the United States Psychiatric Rehabilitation Association (USPRA) for up to 20 percent of the total number of required professional staff.

(4) For Comprehensive PROS programs, at least one of the members of the provider's professional staff shall be a licensed practitioner of the healing arts and shall be employed on a full-time basis.

(5) For Limited License PROS programs, at least one of the members of the provider's professional staff shall be employed on a full-time basis.

(6) IR services shall be provided by, or under the direct supervision of, professional staff.

(7) PROS providers shall maintain an adequate and appropriate number of staff in proportion to the number of individuals served. Providers shall be deemed to have met such standard if their staffing ratios, based on average attendance, are at least in accordance with the following:

(i) For CRS, a ratio of one clinical staff member to every 12 individuals receiving CRS group services;

(ii) For IR, a ratio of one clinical staff member to every 8 individuals receiving IR group services;

(iii) For ORS, a case load of no more than 22 individuals per clinical staff member; and

(iv) For Comprehensive PROS programs with Clinical Treatment, the following additional standards shall apply:

(a) PROS staffing must include a minimum of .125 FTE psychiatrist and .125 FTE registered professional nurse for every 40 individuals receiving Clinical Treatment services; and

(b) Additional psychiatry, nursing and other staff shall be included, as necessary, to meet the volume and clinical needs of persons receiving Clinical Treatment services;

(v) Programs may use nurse practitioners in psychiatry to partially offset the requirement for psychiatrist coverage pursuant to clause (iv)(a) of this paragraph, consistent with the following requirements:

(a) All programs must maintain a minimum .125 FTE psychiatrist;

(b) After having met the minimum .125 FTE psychiatrist required in clause (a) of this subparagraph, programs may elect to substitute nurse practitioner in psychiatry FTE for the additional required psychiatrist FTE at a ratio not to exceed 50 percent of the total psychiatry requirement;

(c) Programs must ensure clinical collaboration between the nurse practitioner in psychiatry and a psychiatrist who is employed by the sponsor, consistent with New York State Education Law governing the licensure of nurse practitioners;

(d) Nurse practitioners used to offset required psychiatrist staffing must be certified as nurse practitioners in psychiatry;

(e) nurse practitioner in psychiatry FTE may not be used to simultaneously satisfy the nurse staffing requirement pursuant to clause (iv)(a) of this paragraph, and to offset the psychiatrist staffing requirement.

(8) All staff shall be afforded regular supervision. Such supervision shall address quality of care provided and ongoing staff development.

(9) A PROS provider may use recipient employees. In such circumstances, the following requirements shall apply:

(i) Recipient employees shall be included in the PROS provider's staffing plan.

(ii) PROS participants may perform a variety of non-paid functions related to the operation of the program as part of the program's therapeutic environment when such functions are identified in the person's Individualized Recovery Plan. Non-paid functions of PROS participants shall not be reflected in the PROS provider's staffing plan.

(iii) Recipient employees shall adhere to the same requirements, pursuant to this Part, which are applicable to other PROS employees.

(iv) Recipient employees shall receive training regarding the principles and requirements of confidentiality, ethics and boundaries, and workplace harassment.

(v) Ongoing supervision of recipient employees shall address, as warranted, boundary issues, transition between roles, and potential conflicts of interest.

(e) Individualized Recovery Planning Process

(1) The individualized recovery planning process shall be carried out by, or under the direct supervision of, a member of the professional staff. Such process is intended to be reflective of person-centered planning principles and shall therefore be conducted in collaboration with the individual and any persons the individual has identified for participation.

(2) The individualized recovery planning process shall address the differences in individuals' cognitive abilities and/or learning style, culture, gender, age and other issues that may impact service delivery.

(3) The individualized recovery planning process shall include, but not be limited to, the following activities:

(i) meetings with the PROS participant and relevant others;

(ii) identification and completion of any necessary screenings or assessments which, for all PROS programs, shall include a psychosocial assessment and a comprehensive psychiatric rehabilitation assessment (including a vocational focus), and for Comprehensive PROS

programs, shall include a chemical abuse or dependence screening;

(iii) linkage and coordination activities with other service providers for the purpose of assessing plan progress; and

(iv) development of an Individualized Recovery Plan (IRP).

(4) An initial IRP shall be developed within 30 days of the individual's admission date.

(5) Each individual's IRP shall be reviewed and updated, at a minimum, every six months. The review time period shall begin upon the completion of the initial IRP, or the completion of subsequent reviews or revisions of the IRP. IRP reviews, or updates, shall occur more frequently, as necessary, to change the plan of care, in response to significant events or changes in the individual's goals or service needs.

(i) For individuals receiving IR or ORS services, the IR or ORS services identified in the IRP shall be assessed for continued need, at a minimum, every three months. The decision to continue or discontinue the service shall be documented and include the following:

(a) reason for the decision;

(b) signature of the individual; and

(c) signature of the clinical staff member assessing the need for continued service, if the clinical staff member who conducted the assessment is not a member of the professional staff, the signature of the professional staff who supervised the staff member must also be recorded.

(6) If a PROS participant is receiving PROS services from multiple PROS providers:

(i) the provider of CRS services shall be responsible for forwarding copies of the IRP and related updates to the provider of IR or ORS services; and

(ii) the provider of IR or ORS services shall be responsible for developing an IR or ORS plan which shall be a component of the IRP, and which is consistent with the IRP developed by the provider of CRS services.

(7) If a PROS participant receives PROS services only from one PROS provider, and receives only IR or ORS services, the provider of IR or ORS services shall be responsible for the completion, review and update of an IRP pursuant to the requirements of this subdivision.

(8) If a PROS participant receives solely ORS services from a comprehensive PROS, the provider shall be responsible only for completing a psychiatric rehabilitation assessment with an employment focus and for developing an IRP that is reflective of an employment support goal. The provider is not required to complete a relapse prevention plan with the individual but may do so. All other documentation requirements still pertain.

Section 512.8. Documentation

(a) Case records.

(1) There shall be a complete case record maintained for each person admitted to a PROS program. Such case record shall be maintained in accordance with recognized and acceptable principles of record keeping as follows:

- (i) any case record entries shall be legible and non-erasable;
- (ii) case records shall be periodically reviewed for quality and completeness; and
- (iii) all entries in case records shall be dated and signed by appropriate staff.

(2) The case record shall be available to all staff who are providing services to the individual, and to any staff who have need for access, consistent with state and federal confidentiality requirements.

(3) The case record shall include the following information:

- (i) any pre-admission screening notes;
- (ii) identifying information and history;
- (iii) mental illness diagnosis;
- (iv) required assessments;
- (v) for individuals receiving Clinical Treatment component services from the PROS program, an assessment of the individual's psychiatric and physical needs, and dated and signed records of all medications prescribed;
- (vi) reports of any mental and physical diagnostic exams, tests and consultations;
- (vii) screening and admission note;
- (viii) attestation form;
- (ix) the Individualized Recovery Plan (IRP), IRP service addition form, and all reviews of the IRP;
- (x) documentation satisfying the requirements in subdivision (d) of this section;
- (xi) dated progress notes;
- (xii) any referrals to other programs and services;
- (xiii) any consent forms; and

(xiv) discharge plan and/or summary, as appropriate.

(4) Case records may include relevant history and assessment documents completed by other providers of service.

(5) For persons who are discharged from a PROS program and referred to another provider, the discharge summary shall be transmitted to the receiving program within two weeks.

(6) Case records shall be retained for a minimum of six years following an individual's discharge from the program.

(b) Individualized Recovery Plan (IRP)

(1) Each individual's IRP shall include, at a minimum, the following:

(i) A description of the individual's strengths and challenges related to program participation as identified by any screenings and assessments conducted by the PROS program;

(ii) A statement of the individual's recovery goals and program participation objectives;

(iii) Identification of the barriers, due to the individual's mental illness, that are preventing the achievement of the individual's recovery goals;

(iv) An individualized course of action to be taken, including the specific services to be provided, the expected frequency of service delivery, the expected duration of the course of service delivery, and the anticipated outcome;

(v) For individuals receiving IR, ORS or Clinical Treatment services, the IRP shall identify the reasons why these services are needed, in addition to CRS services, to achieve the individual's recovery goals.

(vi) Criteria to determine when goals and objectives have been met so that the individual can move forward in his or her recovery process;

(vii) The identification of any collaterals who will assist the individual in his or her recovery;

(viii) A relapse prevention plan, which includes a description of the individual's preferences regarding treatment in the event of a crisis;

(ix) Any other advance directives or preferences expressed by the individual;

(x) Description and goals of any linkage and coordination activities with other service providers;

(xi) For PROS participants receiving treatment services from a clinic licensed pursuant to Part 587 of this Title, a description of how such services are integrated with the individual's IRP; and

(xii) Signature as follows:

(a) the PROS participant's signature;

(b) the signature of the clinical staff member who prepared the IRP;

(c) if the clinical staff member who prepared the IRP is not a member of the professional staff, the signature of the professional staff member supervising or participating in the IRP process shall also be included; and

(d) for persons receiving Clinical Treatment, the IRP shall include a physician's signature or the signature of a nurse practitioner in psychiatry.

(2) The inclusion of all required staff's signatures on the IRP is a representation that the identified PROS services are deemed to be medically necessary.

(3) An IRP is considered completed when all required staff signatures are provided. The latest date of signature is the IRP's official completion date.

(4) Services may be provided on an interim basis and be considered part of the IRP by completing a service addition form. The IRP must be modified no later than the last day of the month following the month in which the service addition form was completed. The service addition form must include the following:

(i) the name of the service(s) to be provided and the reason for the service(s) addition;

(ii) the signature of the individual and a member of the clinical staff; and

(iii) the signature of the psychiatrist or nurse practitioner in psychiatry if the service is a clinic treatment service.

(c) Progress notes.

(1) Progress notes shall be maintained for each individual and shall be dated, signed by a clinical member of the PROS program staff, and indicate the period of time covered by the note.

(2) Progress notes shall include, at a minimum:

(i) a summary of services received subsequent to the last progress note;

(ii) a description of the progress made toward the goals identified in the IRP subsequent to the last progress note; and

(iii) identification of any necessary changes to the IRP and services related to such changes.

(3) Progress notes shall be completed, at a minimum, once each month.

(4) A progress note must also be completed for any significant event and/or unexpected incident.

(d) Supporting documentation.

(1) The PROS program shall maintain documentation for each participant indicating:

(i) duration of onsite and off-site program participation per day;

(ii) types and numbers of PROS services provided per day;

(iii) number of PROS units accrued per day; and

(iv) total PROS units accumulated per month verified by the signature of a staff member.

(2) The PROS program shall maintain a daily program schedule that includes scheduled meal periods and planned recreational activities.

Section 512.9. Organization and Administration

(a) The provider of service shall identify a governing body, which shall have overall responsibility for the operation of the program. The governing body may delegate responsibility for the day-to-day management of the program to appropriate staff pursuant to an organizational plan approved by the Office.

(b) In programs operated by not-for-profit corporations other than hospitals licensed pursuant to Article 28 of the Public Health Law, no person shall serve as a member of the governing body and of the paid staff of the program without prior approval of the Office.

(c) The governing body shall be responsible for the following duties:

(1) to meet at least four times a year;

(2) to review, approve and maintain minutes of all official meetings;

(3) to develop an organizational plan which indicates lines of accountability and the qualifications required for staff positions. Such plan may include the delegation of the responsibility for the day-to-day management of the program to a designated professional who is qualified by training and experience to supervise program staff;

(4) to review the program's compliance with the terms and conditions of its operating certificate, applicable laws and regulations;

(5) to design and operate the program consistent with and appropriate to the ethnic and cultural background of the population to be served by the PROS program;

(6) to develop a mechanism for PROS program participants, and any individuals they identify, to participate in the development and ongoing review of the IRP;

(7) to develop, approve, and periodically review and revise as appropriate, all programmatic and administrative policies and procedures. Such policies and procedures shall include, but are not limited to, the following:

(i) written personnel policies which shall prohibit discrimination on the basis of race, color, creed, disability, sex, marital status, age, national origin or sexual orientation, and the applicable obligations imposed by: Title VII of the Civil Rights Act; Federal Executive Order 11246; the Rehabilitation Act of 1973, section 504; the Vietnam Era Veteran's Readjustment Act; the Federal Age Discrimination in Employment Act of 1967; the Federal Equal Pay Act of 1963; the Americans with Disabilities Act of 1990; and the State Human Rights Law (Executive Law, Article 15);

(ii) written policies, applicable to job applicants and volunteers, which shall provide for verification of employment history, personal references, work record and qualifications, as well as documentation of compliance with Part 550 of this Title - Criminal History Records Check;

(iii) written policies and procedures, when applicable, concerning the prescription and administration of medication which shall be consistent with applicable federal and state laws and regulations;

(iv) written policies and procedures regarding the confidentiality of individuals' records consistent with applicable federal and state laws and regulations, and the appropriate retention of such records;

(v) written criteria for admission and discharge from the program;

(vi) written policies and procedures regarding the mandatory reporting of child abuse or neglect;

(vii) written policies and procedures describing an incremental grievance process that addresses the timely review and resolution of individuals' complaints, including documentation thereof, and which provides a process enabling individuals to request review by the provider's governing body, and ultimately the Office of Mental Health, when resolution is not satisfactory; and

(viii) written policies and procedures regarding the use of recipient employees that address, at a minimum, the requirements pursuant to section 512.7(d)(10) of this Part.

(ix) standards of conduct which shall be delineated for all staff in regard to relationships with PROS participants consistent with OMH guidance.

(d) Restraint and seclusion shall not be utilized in programs governed by this Part. Each PROS program must have ongoing education and training and must demonstrate competence in techniques and alternative methods of safely handling crisis situations. In situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed, nothing in this section shall be construed to prohibit the use of reasonable

physical force when necessary to protect the life and limb of any person.

(e) Individuals' participation in research shall only occur in accordance with applicable federal and state requirements.

(f) A provider of service shall report, investigate, review, monitor and document incidents in accordance with Section 29.29 of the Mental Hygiene Law and Part 524 of this Title.

(g) There shall be an emergency evacuation plan and staff shall be trained about its procedures.

(h) There shall be a written utilization review procedure to monitor the appropriateness of service provision.

(i) The provider of service shall participate as required with the local governmental unit in local planning processes pursuant to sections 41.05 and 41.16 of the Mental Hygiene Law. At a minimum, such participation shall include:

- (1) provision of budget and planning data as requested by the local governmental unit;
- (2) identification of the population being served by the program;
- (3) identification of the geographic area being served by the program;
- (4) description of the program's relationship to other providers of service including, but not limited to, a description of all written agreements entered into pursuant to this Part; and
- (5) provision of copies to the local governmental unit of any plans or documents submitted to the Office for approval pursuant to this Part at the time of such submission to the Office. The provider of service shall consult with the local governmental unit prior to the submission of any such plans or documents and, to the extent practicable, prior to any changes or alterations to the PROS program not otherwise addressed in such plans or documents.

(j) In programs that are not operated by a unit of New York State government, there shall be an annual audit, pursuant to a format prescribed by the Office, of the financial condition and accounts of the program performed by a certified public accountant who is not a member of the governing body or an employee of the program. Government-operated programs shall comply with applicable laws concerning financial accounts and auditing requirements.

(k) The provider of service shall establish mechanisms for the meaningful participation of current or former recipients of service either through direct participation on the governing body, or through the creation of an advisory board. If an advisory board is used, the provider of service shall establish a mechanism for the advisory board to make recommendations to the governing body.

(l) The provider of service shall establish mechanisms for priority access by individuals, referred to the provider, who are enrolled in an assisted outpatient treatment program established pursuant to section 9.60 of the Mental Hygiene Law. Prior to the discharge by a provider of service of an individual who is also enrolled in an assisted outpatient treatment program, the

provider of service shall notify the individual's case manager and the director of the assisted outpatient treatment program.

(m) The provider of service shall establish mechanisms that promote the competency of its workforce.

(n) The provider of service shall maintain adequate information in personnel files concerning the scope of activities for workforce development, additional certificate or academic programs which staff have engaged in while employed, and special credentialing that staff have achieved to obtain necessary competencies.

(o) Comprehensive PROS programs with Clinical Treatment shall have a mechanism to provide, or arrange for, face-to-face contact with individuals enrolled in the program who need assistance when the program is not in operation.

(p) Comprehensive PROS programs without Clinical Treatment shall develop a plan for appropriately responding to individuals enrolled in the program who need assistance when the program is not in operation. Such plan shall be subject to approval by the Office.

(q) The PROS program shall develop a plan that addresses continuity of care within the mental health system and other service systems (e.g., social services, health care, alcoholism and substance abuse services, local correctional systems). Such plan shall be subject to approval by the Office.

(r) Upon the request of the Office, or upon the request of the local governmental unit with which the provider has an agreement in accordance with section 512.14(b) of this Part, each provider of service shall furnish any and all information and records concerning the operation and administration of the program including, but not limited to, information regarding the program or services, person-specific services, performance indicators, contracts or other agreements and statistical, administrative and fiscal operations.

(s) Providers shall comply with applicable data submission requirements identified by the Office.

Section 512.10. Rights of PROS Participants

(a) Individuals participating in a PROS program certified pursuant to this Part are entitled to the rights defined in this subdivision. A provider of service shall be responsible for the protection of these rights.

(1) Individuals participating in a PROS program have the right to an Individualized Recovery Plan and to participate to the fullest extent consistent with his or her capacity in the establishment and revision of that plan.

(2) Individuals have the right to a full explanation of the services provided in accordance with their IRP.

(3) Participation in a PROS program is voluntary and individuals are presumed to have the capacity to consent to such participation. The right to participate voluntarily in and to consent

to participation in a PROS program shall be limited only pursuant to a court order in accordance with applicable provisions of law.

(4) The confidentiality of individuals' clinical records shall be maintained in accordance with Section 33.13 of the Mental Hygiene Law and applicable federal law and regulations.

(5) PROS participants and other qualified persons shall be assured access to their clinical records consistent with Section 33.16 of the Mental Hygiene Law and applicable federal law and regulations.

(6) Individuals have the right to receive clinically appropriate care and treatment that is suited to their needs and skillfully, safely and humanely administered with full respect for their dignity and personal integrity.

(7) Individuals have the right to receive services in a non-discriminatory manner, and to be treated in a way that acknowledges and respects their cultural environment.

(8) Individuals have the right to a maximum amount of privacy consistent with the effective delivery of services.

(9) Individuals have the right to freedom from abuse and mistreatment by staff.

(10) Individuals have the right to be informed of the provider's grievance policies and procedures, and to initiate any questions, complaints or objections accordingly.

(b) A provider of service shall provide a notice of rights as described in subdivision (a) of this section to each individual upon admission to a PROS program. Such notice shall be provided in writing and posted in a conspicuous location easily accessible to the public. The notice shall include the address and telephone number of the Commission on Quality of Care and Advocacy for Persons with Disabilities, the nearest regional office of the Protection and Advocacy for Mentally Ill Individuals Program, the nearest chapter of the National Alliance for the Mentally Ill-New York State, the local governmental unit, and the Office of Mental Health.

Section 512.11. Medicaid Reimbursement

(a) General reimbursement requirements for PROS providers.

(1) Reimbursement shall be made only for individuals who:

(i) are in pre-admission status pursuant to section 512.7(c)(4) of this Part;

(ii) are registered in a PROS program pursuant to section 512.7(c)(13) of this Part; or

(iii) are collaterals of persons who are registered in a PROS program, or are in pre-admission status.

(2) Unless an individual is registered with a PROS program pursuant to section 512.7(c)(12) of this Part, reimbursement is limited to the Pre-Admission Monthly Base Rate, consistent with

section 512.12(e) of this Part.

(3) For purposes of reimbursement for individuals enrolled in Medicaid managed care, a PROS program is considered to be a carved-out service.

(4) When available and appropriate, PROS providers shall maximize the use of funding from the Office of Vocational and Educational Services for Individuals with Disabilities (VESID). Time spent in such funded activities shall not be included in the duration of program participation pursuant to paragraph (b)(4) of this section.

(5) In order to be eligible for reimbursement, any PROS service provided to a PROS participant in the participant's employment setting and any ORS service shall be on a one-to-one basis.

(b) Reimbursement for comprehensive PROS programs.

(1) A Comprehensive PROS program shall be reimbursed on a monthly case payment basis.

(2) The reimbursement structure for a Comprehensive PROS program consists of the following four elements:

- i. Monthly base rate;
- ii. IR component add-on;
- iii. ORS component add-on; and
- iv. Clinical Treatment component add-on.

(3) The basic measure for the PROS monthly base rate is the PROS unit. PROS units are accumulated during the course of each day that the individual participates in the PROS program, and are aggregated up to a monthly total to determine the amount of the PROS monthly base rate that can be billed for the individual during a particular month.

(4) The PROS unit is determined by the duration of program participation, which includes a combination of on-site and off-site program participation, as defined in section 512.4 of this Part, and service frequency, as defined in paragraph (6) of this subdivision. The PROS unit approach supports the billing concept of a "modified threshold visit."

(5) Program participation is measured and accumulated in 15 minute increments. Increments of less than 15 minutes must be rounded down to the nearest quarter hour to determine the program participation for the day.

(6) Service frequency is the number of medically necessary PROS services delivered to an individual or collateral during the course of a program day. Notwithstanding paragraph 512.4(x)(2) of this Part, services to collaterals may be included in the calculation of service frequency.

(7) Medically necessary PROS services include:

- (i) assessment services;
- (ii) crisis intervention services;
- (iii) engagement services;
- (iv) individualized recovery planning services;
- (v) pre-admission screening services provided during pre-admission status and documented in a pre-admission screening note;
- (vi) services delineated in the screening and admission note pursuant to section 512.7(c)(7) of this Part, which are provided subsequent to the individual's admission date, but prior to the completion of the initial IRP, and documented in the progress note; and
- (vii) services identified in, and provided in accordance with, the individual's IRP.

(8) If a recipient employee provides a medically necessary service to other participants in the PROS program, such service may be included in the calculation of PROS units for such participants, as applicable. However, such service may not be included in the calculation of PROS units for the recipient employee.

(9) In order to accumulate any PROS units for a day, a PROS program must deliver a minimum of one medically necessary PROS service to an individual or collateral during the course of the day.

(10) PROS units are accumulated in intervals of 0.25. The maximum number of PROS units per individual per day is five.

(11) The formula for accumulating PROS units during a program day is as follows:

(i) If one medically necessary PROS service is delivered, the number of PROS units is equal to the duration of program participation, rounded down to the nearest quarter hour, or two units, whichever is less.

(ii) If two medically necessary PROS services are delivered, the number of PROS units is equal to the duration of program participation, rounded down to the nearest quarter hour, or four units, whichever is less.

(iii) If three or more medically necessary PROS services are delivered, the number of PROS units is equal to the duration of program participation, rounded down to the nearest quarter hour, or five units, whichever is less.

(12) To satisfy the service frequency requirement of paragraph (11) of this subdivision, services must be provided in accordance with the following:

(i) services provided in a group format shall be at least 30 minutes in duration; and

(ii) services provided in an individual modality shall be at least 15 minutes in duration.

(13) When a medically necessary CRS service is provided in a group format, such service shall not be used to satisfy the service frequency requirement of paragraph (11) of this subdivision for more than 12 members of the group per each participating staff member.

(14) To determine the monthly base rate, the daily PROS units accumulated during the calendar month are aggregated and translated into one of five payment levels, in accordance with section 512.12(e) of this Part.

(15) A minimum of two PROS units must be accrued for an individual during a calendar month in order to bill the monthly base rate.

(c) Reimbursement for component add-ons in comprehensive PROS programs.

(1) The three component add-ons pursuant to paragraph (b)(2) of this section are provided in recognition that certain activities involve increased costs due to their intensity or the need for specialized staff expertise.

(i) Up to two component add-ons may be billed per individual per month.

(ii) In no event shall an ORS component add-on and an IR component add-on be billed in the same month for the same individual.

(iii) Component add-ons shall not be billed prior to the calendar month in which the individual is registered with the PROS program.

(2) Intensive Rehabilitation.

(i) In order to bill the IR component add-on, an individual must have received at least six PROS units during the month, including at least one IR service, as identified in section 512.7(b)(4) of this Part.

(ii) When a medically necessary IR service, other than Family Psychoeducation, is provided in a group format, such service shall not be used to satisfy the service frequency requirement of paragraph (11) of this subdivision, or the IR service requirement of subparagraph (i) of this paragraph, for more than eight members of the group.

(iii) When a medically necessary Family Psychoeducation IR service is provided in a group format, such service shall not be used to satisfy the service frequency requirement of paragraph (11) of this subdivision, or the IR service requirement of subparagraph (i) of this paragraph, for more than 16 members of the group.

(iv) Medicaid may reimburse the IR component add-on for up to 50 percent of a provider's total number of monthly base rate bills submitted annually.

(v) In instances where a Comprehensive PROS program provides IR services to an individual,

but CRS services are provided by another provider of service or no CRS services are provided in the month, the Comprehensive PROS provider shall submit an IR-only bill. When an IR-only bill is submitted, the minimum six PROS units required pursuant to subparagraph (i) of this paragraph shall be limited to the provision of IR services.

(3) Ongoing Rehabilitation and Support

(i) PROS programs may only bill the ORS component add-on for individuals who work in an integrated competitive job for a minimum of 10 hours per week. However, to allow for periodic absences due to illness, vacations, or temporary work stoppages, individuals who are scheduled to work at least 10 hours per week and have worked at least one week within the month for 10 hours qualify for reimbursement.

(ii) A minimum of two face-to-face contacts with the individual and/or identified collateral, which include ongoing rehabilitation and support services, must be provided per month. A minimum contact is 30 continuous minutes in duration. At least two of the face-to-face contacts must occur on separate days. A contact may be split between the individual and the collateral. At least one visit per month shall be with the individual only.

(iii) In instances where a Comprehensive PROS program provides ORS services to an individual, but CRS services are provided by another provider of service or no CRS services are provided in the month, the Comprehensive PROS provider shall submit an ORS-only bill. Notwithstanding paragraph (b)(15) of this section, the minimum service requirement for submission of an ORS-only bill shall be consistent with subparagraph (ii) of this paragraph.

(4) Clinical Treatment

(i) In order to bill the Clinical Treatment add-on, a minimum of one Clinical Treatment service, as identified in section 512.7(b)(9) of this Part, must be provided during the month.

(ii) Individuals receiving Clinical Treatment must have, at a minimum, one face-to-face contact with a psychiatrist or nurse practitioner in psychiatry every three months, or more frequently as clinically appropriate. Such contact during any of the first three calendar months of the individual's admission will enable billing for the month of contact, any preceding months in which the client has been registered with the PROS program, and the two months following the month of contact. Thereafter, each month that contains a contact with a psychiatrist or nurse practitioner in psychiatry will enable billing for that month and the next two months.

(iii) The Clinical Treatment component may only be reimbursed in conjunction with the monthly base rate and/or the Intensive Rehabilitation or Ongoing Rehabilitation and Support add-on.

(iv) If it is clinically appropriate to deliver a Clinical Treatment service in a group format, the group size limitations for CRS services in sections 512.7(b)(3) and 512.11(b)(13) of this Part shall apply.

(d) Reimbursement for limited license PROS programs.

(1) A Limited License PROS program shall be reimbursed on a monthly case payment basis.

(2) A Limited License PROS program may be reimbursed in a given month for either one monthly IR component or one monthly ORS component per individual.

(3) To bill the IR component on behalf of an individual, the individual must participate in at least six hours of IR services per month.

(4) To bill the ORS component on behalf of an individual, notwithstanding paragraph (b)(15) of this section, a minimum of two face-to-face contacts per month must be provided. A minimum contact is 30 continuous minutes in duration. At least two of the face-to-face contacts must occur on separate days.

(5) PROS programs may only bill the ORS component for individuals who work in an integrated competitive job for a minimum of 10 hours per week. However, to allow for periodic absences due to illness, vacations, or temporary work stoppages, individuals who are scheduled to work at least 10 hours per week and have worked at least one week within the month for 10 hours qualify for reimbursement.

(e) Reimbursement for pre-admission program participation.

(1) Reimbursement for individuals who are in continuous pre-admission status is limited to two consecutive months, whether or not the individual is ultimately admitted to the program.

(i) If pre-admission program participation occurs in the month preceding the month of admission, reimbursement cannot exceed the Pre-Admission Monthly Base Rate pursuant to subdivision 512.12(e) of this Part.

(ii) If pre-admission program participation occurs during the month of admission, but the individual has not been registered in the PROS program during that month, reimbursement cannot exceed the Pre-Admission Monthly Base Rate pursuant to section 512.12(e) of this Part.

(2) If pre-admission program participation occurs during the month of admission, the pre-admission program participation may be included in the total number of PROS units accumulated during the calendar month.

(3) In no event shall the use of the Pre-Admission Monthly Base Rate exceed two consecutive months per individual.

(f) Co-enrollment limitations.

(1) General rules.

(i) When an individual is registered in a PROS program, Medicaid reimbursement for participation in other community-based programs may be limited, depending upon the level of PROS participation and the category of the community-based program. This subdivision

describes the conditions under which Medicaid will pay for those services.

(ii) If an individual is in pre-admission status pursuant to subdivision 512.7(c) of this Part, the co-enrollment limitations described in this subdivision are not applicable. This exception shall be limited to two consecutive calendar months for each pre-admission episode.

(iii) When co-enrollment is otherwise permitted by this Part, participation in multiple programs may occur on the same day.

(iv) In some instances, the PROS registration system can be used to enforce the co-enrollment rules described in this subdivision. In those circumstances, the registration system precludes initial payment to providers other than the PROS provider with whom an individual is registered. In circumstances in which the PROS registration system cannot be used to enforce the co-enrollment rules described in this subdivision, any post-payment recoveries will be conducted pursuant to subdivision (g) of this section.

(v) If an individual is registered in a Medicaid-eligible program that has a restriction/exception code or a Medicaid coverage code in the Welfare Management System and the New York State Department of Health has designated the program as not eligible for co-enrollment with the PROS program, the PROS program shall not receive reimbursement.

(2) Multiple PROS programs. Medicaid may reimburse for unduplicated components of service provided to an individual in a given month in multiple PROS programs. However, Medicaid shall not reimburse an IR component and an ORS component in a given month for the same individual.

(3) OMH-Licensed or OMRDD-licensed Clinic and PROS Program.

(i) Medicaid shall not reimburse for both Clinical Treatment services provided to an individual in a given month in the Clinical Treatment component of a Comprehensive PROS program and a clinic licensed pursuant to Part 587 or Part 679 of this Title.

(ii) Medicaid may reimburse for services provided to a PROS participant in a given month in a clinic, only if the clinic provider and the PROS provider are not operated by the same sponsor, and the individual is not registered in the PROS Clinical Treatment component.

(iii) Medicaid may reimburse for services provided to an individual in a given month in both a Limited License PROS program and a clinic licensed pursuant to Part 587 or Part 679 of this Title.

(4) OMH-Licensed Continuing Day Treatment (CDT) Program and PROS Program.

(i) Medicaid shall not reimburse for both services provided to an individual in a given month in a Comprehensive PROS program and a CDT program licensed pursuant to Part 587 of this Title.

(ii) Medicaid may reimburse for the IR or ORS components of service provided to an individual in a given month in a Limited License PROS program and for services provided in a

CDT program licensed pursuant to Part 587 of this Title only if the CDT provider and the PROS provider are not operated by the same sponsor.

(5) OMH-Licensed Partial Hospitalization (PH) Program and PROS Program. Medicaid may reimburse for services provided to an individual in a given month in both a PROS program and a PH program licensed pursuant to Part 587 of this Title.

(6) OMH-Licensed Intensive Psychiatric Rehabilitation Treatment Program (IPRT) and PROS Program. Medicaid shall not reimburse for both services in a given month provided in a PROS program and an IPRT.

(7) OMH-Licensed Assertive Community Treatment (ACT) Program and PROS Program.

(i) Medicaid may reimburse for services provided to an individual in both a Comprehensive PROS program and an ACT program for no more than three months within any twelve-month period.

(ii) Medicaid reimbursement of the PROS provider shall be limited to Level 1, 2 or 3 of the PROS Monthly Base Rate.

(iii) Medicaid reimbursement of the ACT provider shall be limited to the supportive level payment rate or the intensive level partial payment rate, pursuant to section 508.5(b) of this Title.

(8) Intensive, Supportive or Blended Case Management (ICM/SCM/BCM) Program and PROS Program. Medicaid may reimburse for services in a given month provided in both a PROS program and an ICM/SCM/BCM program.

(9) Pre-paid Mental Health Plan (PMHP) Program and PROS Program. Medicaid shall not reimburse for both services in a given month provided in a PROS program and a PMHP program.

(10) OMRDD-sponsored Pre-vocational or Supported Employment Services and PROS Program.

(i) Medicaid shall not reimburse for both services provided to an individual in a given month in the IR component of a PROS program and pre-vocational or supported employment services pursuant to section 635-10.4(c) of this Title.

(ii) Medicaid shall not reimburse for both services provided to an individual in a given month in the ORS component of a PROS program and pre-vocational or supported employment services pursuant to section 635-10.4(c) of this Title.

(11) OMRDD-sponsored Day Services and PROS Program. When medically necessary, Medicaid may reimburse for services provided to an individual in a given month in both OMRDD-licensed day treatment programs pursuant to Part 690 of this Title or OMRDD-sponsored day habilitation services pursuant to paragraph 635-10.4(b)(2) of this Title and a PROS program. Medicaid reimbursement of a Comprehensive PROS provider shall be limited to Level 1 or 2 of

the PROS Monthly Base Rate.

(12) DOH-Licensed Outpatient Program and PROS Program.

(i) Medicaid shall not reimburse for any mental health services provided in a given month in an outpatient program licensed pursuant to Article 28 of the Public Health Law to an individual who is registered in a PROS program.

(ii) This paragraph is not applicable to outpatient programs that are licensed by both OMH and DOH.

(g) Post-payment audits and recoveries.

(1) In circumstances in which the PROS registration system cannot be used to enforce the co-enrollment rules pursuant to subdivision (f) of this section, or other reimbursement limitations described in this Part, providers will be subject to post-payment audits and recoveries in accordance with this subdivision.

(2) If Medicaid provided reimbursement to a PROS program that was not authorized pursuant to subparagraph (c)(2)(iv) of this section, the program is not entitled to retain Medicaid reimbursement for the IR component add-on in excess of the 50 percent limit.

(3) If Medicaid provided reimbursement to a PROS program and/or a clinic program that was not authorized pursuant to paragraph (f)(3) of this section, and both the PROS program and the clinic program are operated by the same sponsor:

(i) If both programs received reimbursement for the same individual, the clinic program is not entitled to retain any of the funds paid to the clinic program on behalf of that individual.

(ii) If only the clinic program received reimbursement for an individual who is registered in the PROS program, the clinic program is not entitled to retain any of the funds paid to the clinic program on behalf of that individual in excess of the amount of the PROS Clinical Treatment component add-on, described in paragraph 512.12(e)(1) of this Part.

(4) If Medicaid provided reimbursement to both a PROS program and a CDT program operated by the same sponsor that was not authorized pursuant to paragraph (f)(4) of this section, the CDT program is not entitled to retain any of the funds paid to the CDT program in a given month on behalf of the same individual.

(5) If Medicaid provided reimbursement to both a PROS program and an IPRT program operated by the same sponsor that was not authorized pursuant to paragraph (f)(6) of this section, the IPRT program is not entitled to retain any of the funds paid to the IPRT program in a given month on behalf of the same individual.

(6) If Medicaid provided reimbursement to a PROS program and an ACT program that are not authorized pursuant to paragraph (f)(7) of this section, such providers are not entitled to retain such reimbursement as follows:

(i) If reimbursement to the PROS provider exceeds three months within a 12-month period, the PROS provider is not entitled to retain any reimbursement in excess of three months.

(ii) If reimbursement to the PROS provider exceeds Level 3 of the Monthly Base Rate, the PROS provider is not entitled to retain any amounts in excess of Level 3 of the Monthly Base Rate.

(iii) If reimbursement to the ACT provider exceeds the supportive level payment rate or the intensive level partial payment rate, the ACT provider is not entitled to retain any funds paid to the ACT provider in excess of the allowable payment.

(7) If Medicaid provided reimbursement to a PROS program and a PMHP program that was not authorized pursuant to paragraph (f)(9) of this section, the PMHP program is not entitled to retain the equivalent of any funds paid to the PROS provider, up to the amount paid to the PMHP provider on behalf of the same individual.

(8) If Medicaid provided reimbursement to a PROS program and an OMRDD-sponsored prevocational or supported employment program that was not authorized pursuant to paragraph (f)(10) of this section, the PROS provider is not entitled to retain the IR or ORS component add-on.

(9) If Medicaid provided reimbursement to a PROS program and an OMRDD-sponsored day program that was not authorized pursuant to paragraph (f)(11) of this section, the PROS provider is not entitled to retain any amounts in excess of Level 2 of the Monthly Base Rate.

(10) If Medicaid provided reimbursement to a PROS program and a DOH-licensed program that was not authorized pursuant to paragraph (f)(12) of this section, the DOH-licensed program is not entitled to retain any of the funds paid to the DOH-licensed program for mental health services on behalf of that individual.

(11) In the event that the PROS registration system fails to enforce the reimbursement limitations pursuant to this Part, the State reserves the right to recover any duplicative or improper payments.

Section 512.12. Rates of Payment

(a) Rates of payment shall be established on a prospective basis.

(b) Each rate of payment established pursuant to this section shall be a monthly rate determined by the Commissioner and approved by the Division of the Budget.

(c) For purposes of this section, the Downstate Region shall mean the following counties: Bronx, Kings, New York, Queens, Richmond, Nassau, Putnam, Rockland, Suffolk and Westchester.

(d) For purposes of this section, the Upstate Region shall mean those counties of New York State that are not listed in subdivision (c) of this section.

(e) Effective April 1, 2008, the monthly base rate and component add-on schedules for PROS

programs are as follows:

(1) Comprehensive PROS programs:

(i) for programs operated in the Downstate Region:

Monthly Base Rate*						Component Add-On		
Pre-Adm	Level 1 2-12 Units	Level 2 13-27 Units	Level 3 28-43 Units	Level 4 44-60 Units	Level 5 61+ Units	IR	ORS	CT
\$155	\$206	\$447	\$687	\$894	\$1,086	\$419	\$359	\$244.51

*The *Monthly Base Rate* is determined by the total PROS units associated with a single PROS participant and his or her collateral(s) in a given month.

(ii) for programs operated in the Upstate Region:

Monthly Base Rate*						Component Add-On		
Pre-Adm	Level 1 2-12 Units	Level 2 13-27 Units	Level 3 28-43 Units	Level 4 44-60 Units	Level 5 61+ Units	IR	ORS	CT
\$141	\$188	\$407	\$625	\$812	\$988	\$381	\$327	\$244.51

*The *Monthly Base Rate* is determined by the total PROS units associated with a single PROS participant and his or her collateral(s) in a given month.

(2) Limited License PROS programs:

(i) for programs operated in the Downstate Region:

Reimbursement Category	Monthly Fee
Intensive Rehabilitation	\$479
Ongoing Rehabilitation and Support	\$395

(ii) for programs operated in the Upstate Region:

Reimbursement Category	Monthly Fee
Intensive Rehabilitation	\$436
Ongoing Rehabilitation and Support	\$359

(f) Hospital-based providers may receive an add-on to their monthly case payment that reflects their capital costs. The Commissioner may impose a cap on the revenues generated from this rate add-on.

(1) For PROS programs operated by providers licensed pursuant to Article 28 of the Public Health Law, there shall be added an allowance for the cost of capital, which shall be determined by the application of the principles of cost-finding for the Medicare program. No capital expenditure for which approval by the Office is required under the applicable provisions of the Mental Hygiene Law or Part 551 of this Title shall be included in allowable capital costs for purposes of rate computation unless such approval has been secured.

(2) Allowable capital expenditures shall not include costs specifically excluded pursuant to Section 2807-c of the Public Health Law.

(3) The capital payment per service month for a provider's PROS licensed outpatient mental health programs shall be determined by dividing all allowable capital costs of the provider's PROS programs, after deducting any exclusions, by the annual number of service months for all enrollees of the PROS program.

Section 512.13. Premises

(a) The provider of service shall maintain premises that are adequate and appropriate for the safe and effective operation of a PROS program in accordance with the following:

(1) A PROS program shall allocate adequate space for the number of persons served by the program.

(2) All PROS programs shall provide for sufficient types and arrangements of spaces to provide individual and group activities consistent with the program's capacity and purpose.

(3) All Comprehensive PROS programs offering Clinical Treatment shall provide for controlled access to and maintenance of medication and supplies in accordance with applicable federal and state laws and regulations.

(4) All PROS programs shall provide for controlled access to and maintenance of records.

(5) All PROS programs shall provide for appropriate furnishings and equipment consistent with the purpose of the program.

(b) The provider of service shall possess a Certificate of Occupancy in accordance with the

Building Code of New York State and the Property Maintenance Code of New York State (19 NYCRR Chapter XXXIII, Subchapter A, Parts 1221 and 1226) or comparable local codes.

(c) The provider of service shall consider the use of appropriate features and equipment that enable the accessibility of persons with physical disabilities, consistent with the population being served by the program.

Section 512.14. Quality Improvement

(a) The provider of service shall establish a process to collect and analyze data on program and individual outcomes. A process shall be established for the routine use of such data for decision-making purposes. In association with the achievement of individual outcomes and reviews of related processes, providers of service are encouraged to use evidence-based practices.

(b) The Office, in conjunction with local governmental units, will develop a plan regarding oversight and evaluation criteria for PROS programs, including the development of performance indicators.

(1) Each local governmental unit shall decide the level of its participation in the oversight and evaluation of PROS programs. Such participation shall include the execution of signed agreements between the local governmental unit and each PROS program in the geographic area served by the local governmental unit. Such provider agreements may include performance indicators specified by the local governmental unit and approved by the Office.

(2) If the local governmental unit and the PROS provider are unable to execute an agreement in accordance with paragraph (1) of this subdivision, the Office shall review the situation and, if warranted, may execute an agreement directly with the PROS provider. If the Office determines that such an agreement will be executed, it will so notify the local governmental unit.

(3) In the event that the PROS program is operated by the local governmental unit, the PROS program shall execute a provider agreement with the Office.

(c) Provider agreements executed pursuant to subdivision (b) of this section may include provisions authorizing a withholding of up to 20 percent of the provider's monthly Medicaid payment if the provider fails to comply with applicable data and reporting requirements, operational requirements, or performance indicators. Such withholding of Medicaid payments may be continued until the provider attains compliance, at which time previously withheld funds shall be released to the provider.

(1) In regard to performance indicators which are related to the outcome of individual usage of PROS services, no withholding of Medicaid revenue for an individual PROS provider pursuant to this subdivision shall occur earlier than the 12th month following the month in which the operating certificate issued for that provider becomes effective, or the 12th month following the effective date of the initial agreement developed pursuant to subdivision (b) of this section, whichever is later.

(2) Any withholding of Medicaid payments pursuant to this subdivision does not obviate the

authority of the Office to initiate other administrative sanctions authorized pursuant to this Title or applicable provisions of the Mental Hygiene Law.

Section 512.15. Waivers

(a) Requirements for psychiatric coverage associated with Comprehensive PROS programs with Clinical Treatment may be waived under the following circumstances:

(1) The Office, in consultation with the local governmental unit, may approve the use of a physician in lieu of a psychiatrist in circumstances where the PROS program can demonstrate that a psychiatrist is unavailable to meet the requirement. Such physician shall have specialized training or experience in the treatment of mental illness; or

(2) If the requirements of paragraph (1) of this subdivision cannot be met, the Office, in consultation with the local governmental unit, may approve a plan for the provision of an equivalent level of care which shall include, but not be limited to, a physician who does not have specialized training or experience in the treatment of persons with mental illness and at least a licensed psychologist, nurse practitioner, registered professional nurse or licensed social worker who is experienced in the treatment of adults with a diagnosis of mental illness.

(b) In the event that the requirements for psychiatric coverage have been waived pursuant to subdivision (a) of this section, the requirement for collaboration with a psychiatrist who is employed by the sponsor in accordance with section 512.7(d)(7)(v)(c) of this Part may be waived in circumstances where the PROS program can demonstrate that a psychiatrist who is not employed by the sponsor is otherwise available to provide such collaboration.

(c) The Office, in consultation with the local governmental unit, may approve the use of a professional staff member on less than a full-time basis in a Limited License PROS program in circumstances where the PROS program can demonstrate that a professional staff member is unavailable to meet this requirement.

(d) Providers shall apply for waivers in such form as the Commissioner shall require. Waivers shall run concurrently with the term of the program's operating certificate. The Office, in consultation with the local governmental unit, may renew such waivers based upon a determination that conditions continue to warrant the granting of such waivers.

Section 512.16. Transition to Part 512

(a) PROS programs shall be implemented in accordance with a schedule established by the Office of Mental Health, in consultation with the local governmental unit.

(b) Outpatient providers which are certified as a continuing day treatment or intensive psychiatric rehabilitation treatment program pursuant to Part 587 of this Title, and are obtaining certification pursuant to this Part, may continue to operate pursuant to the requirements of Part 587 until four months after the effective date of the PROS provider's initial operating certificate issued pursuant to Part 551 of this Title. Notwithstanding this transition period, applicable co-enrollment reimbursement limitations pursuant to section 512.11(f) of this Part shall become effective upon the effective date of the PROS provider's initial operating certificate

issued pursuant to Part 551 of this Title. In accordance with the licensure category under which individual reimbursement claims are submitted, providers shall adhere to the applicable documentation and service requirements of either this Part, or Parts 587 and 588 of this Title.

(c) Until such time as the PROS registration system can be used to enforce the co-enrollment limitations established pursuant to this Part, the provisions of section 512.11(g) of this Part, as they relate to the recovery of Medicaid, shall not become effective until three months after the effective date of the PROS provider's initial operating certificate issued pursuant to Part 551 of this Title. Notwithstanding this exception, co-enrollment limitations as they pertain to multiple providers operated by the same sponsor shall become effective upon the effective date of the PROS provider's initial operating certificate issued pursuant to Part 551 of this Title.

(d) To allow a period of adjustment to the professional staffing requirements established pursuant to this Part, staff employed by a provider at the time of its application for an operating certificate pursuant to Part 551 of this Title shall be deemed to have met the requirements of section 512.7(d)(2) of this Part, during the provider's first 18 months of operation, subject to the following conditions:

(1) such staffing plan shall be described in the application for an operating certificate pursuant to Part 551 of this Title;

(2) programs must employ at least one full-time professional staff member; and

(3) when a staff member included in the staffing plan pursuant to paragraph (1) of this subdivision leaves the provider's employment, he or she shall be replaced with an individual who will bring the program closer to compliance with subdivision 512.7(d) of this Part.

(e) The Commissioner may permit providers operating pursuant to a PROS operating certificate on or before November 1, 2006, to continue to operate pursuant to the requirements of Part 512 in effect prior to November 1, 2006. Such permission shall be granted only if such providers shall have submitted and the Commissioner shall have approved a transition plan setting forth a timetable for complying with the requirements of this Part.

Section 512.17. Enforcement

(a) A provider of service shall exercise due diligence in complying with the requirements of this Part.

(b) The Office shall review the program and practices of the provider of service in order to facilitate determinations as to whether providers are exercising the requisite due diligence and are otherwise in compliance with this Part.

(c) If, based on a review of the program and practices of a provider of service, the Office determines that a provider of service is not exercising due diligence in complying with the requirements of this Part, the Office shall give notice of the deficiency to the provider of service and may also initiate the following:

(1) request that the provider of service prepare a plan of correction, which plan shall be

subject to approval by the Office; and

(2) provide such technical assistance as the Office deems necessary to assist the provider of service in developing and implementing an appropriate plan of correction.

(d) If the provider of service fails to prepare an acceptable plan of correction within a reasonable time or refuses to permit the Office to provide technical assistance or fails to promptly or effectively implement a plan of correction which has been approved by the Office, it shall be determined that the provider of service is in violation of this Part.

(e) Upon a determination that a provider of service is in violation of this Part, or upon a determination that a provider of service has failed to otherwise comply with the terms of its operating certificate or with the provisions of any applicable statute, rule or regulation, the Commissioner may revoke, suspend or limit the provider's operating certificate or impose fines in accordance with applicable provisions of law or regulation.

(f) Nothing in this section shall limit or preclude the Commissioner from taking whatever immediate measures may be necessary, including the exercise of his or her authority under Mental Hygiene Law Sections, 31.16(b) and 31.28, in the event that an individual's health or safety is in imminent danger or there exists any condition or practice which poses imminent danger to the health or safety of any PROS participant or the public.

Section 512.18. Audits

(a) Each provider of services shall comply with Part 552 of this Title—Audits of Office of Mental Health Licensed or Operated Facilities, Programs or Units, which established standards for the administration of audits.

(b) Providers of service shall cooperate during the performance of audits conducted by the New York State Department of Health, and shall provide access to any such records and reports requested.

1/27/10