

Proposed Rules
of
The Department of Mental Health and Developmental Disabilities
Mental Health Services Division

Chapter 0940-03-05
Mental Health Supportive Living Facility
Quality Enabling Program

Presented herein are proposed amendments of the Department of Mental Health and Developmental Disabilities submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Mental Health and Developmental Disabilities to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in The Office of Legal Counsel for the Department of Mental Health and Developmental Disabilities, Attention: Cindy Tyler, Director, Third Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37243 and in the Department of State, Eighth Floor, Tennessee Tower, William Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Office of Legal Counsel for the Department of Mental Health and Developmental Disabilities, Attention: Laura Benson, Paralegal, Third Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37243, and (615) 532-6516.

The text of the proposed amendments is as follows:

0940-03-05-.01 Purpose is amended by deleting the last sentence so that as amended the rule shall read:

It is the intent of these rules to improve the quality of care and service in Tennessee's mental health supportive living facilities through distributing certain designated and limited state funds.

Paragraph (1) of 0940-03-05-.02 Participation of Residents is amended by adding the following language "in the program" at the end of the paragraph so that as amended the paragraph shall read:

- (1) To be eligible to participate in this program, a resident must meet all of the following requirements both at the time of application and at all times during continued participation in the program:

Subparagraph (b) of paragraph (1) of 0940-03-05-.02 Participation of Residents is amended by deleting the following language "\$600.00 per month" and by substituting the following language "the monthly SSI benefit rate" so that as amended the subparagraph shall read:

- (b) Total income does not exceed the monthly SSI benefit rate; and

Paragraph (1) of 0940-03-05-.03 Participation of Providers is amended by adding the following language "at all times" before the word "during" and "in the program" at the end of the paragraph so that as amended the paragraph shall read:

- (1) To be eligible to participate in this program, a mental health supportive living facility, as defined by departmental rules, must meet all of the following requirements, both at the time of application and at all times during continued participation in the program:

Subparagraph (b) of paragraph (1) of 0940-03-05-.03 Participation of Providers is amended by adding the following language “Dyer, Hamilton, Davidson, Lincoln, Warren” before “or Shelby counties” so that as amended the subparagraph shall read:

- (b) Is located in Hardeman, Obion, Wilson, Madison, Knox, Dyer, Hamilton, Davidson, Lincoln, Warren or Shelby counties;

Subparagraph (c) of paragraph (1) of 0940-03-05-.03 Participation of Providers is amended by deleting the following language “pilot” so that as amended the subparagraph shall read:

- (c) Collects and furnishes at the request of the department such data and information as is necessary to evaluate the effectiveness of the program;

Subparagraph (e) of paragraph (1) of 0940-03-05-.03 Participation of Providers is amended by deleting the following language “does” in the first sentence and “organization” in the last sentence and by adding the following language “Must accept” at the beginning of the paragraph and “organizations” in the last sentence after the word “civic” so that as amended the subparagraph shall read:

- (e) Must accept payment in full toward the cost for the supportive living facility services and not attempt to hold any other person as responsible or liable for the cost of these services. Payment made to the provider under this program is intended to improve the quality of care and service to a resident and is not to be considered as income to the resident. Residents are not, by this program, disqualified or adversely affected for benefits from other local, state, or federal programs that are based on income eligibility. A facility is not prohibited from accepting gifts in any form from churches, civic organizations, etc.

Paragraph (2) of 0940-03-05-.05 Reimbursement is amended by deleting the following language “From the effective date of this rule through June 30, 1989, the amount of reimbursement shall be one-hundred (\$100.00) dollars per day of residence; beginning July 1, 1989,” so that as amended the paragraph shall read:

- (2) The amount of reimbursement shall be two (\$2.00) dollars per day of residence.

Paragraph (7) of 0940-03-05-.05 Reimbursement is amended by deleting the following language “pilot” so that as amended the paragraph shall read:

- (7) Reimbursement is limited to the amount appropriated through state funds for the program. Reimbursement will be made on the first come first served basis with the date the claim is received at the department as the date of eligibility for reimbursement. The program will terminate if the total appropriated for this program has been expended.

The first paragraph of 0940-03-05-.06 Termination from Participation is amended by adding a parenthetical numeric reference “(1)” before the paragraph so that as amended it shall read:

- (1) A participating provider or a participating resident may be terminated from this program for any of the following reasons:

Subparagraph (a) of paragraph (1) of 0940-03-05-.06 Termination from Participation is amended by deleting the following language “pilot” so that as amended the subparagraph shall read:

- (a) The termination of the program after thirty (30) days' notice to all persons and all mental health supportive living facilities who are then participating;

Subparagraph (b) of paragraph (1) of 0940-03-05-.06 Termination from Participation is amended by adding the following language “in the program” after the word “participation” in the middle and at the end of the paragraph so that as amended the subparagraph shall read:

- (b) A resident no longer meets the requirements for participation in the program, set forth above, or a provider no longer meets the requirements for participation in the program, set forth above;

Paragraph (1) of 0940-03-05-.07 Hearings is amended by deleting the paragraph in its entirety and substituting the following so that as amended the paragraph shall read:

- (1) If a program applicant or participant is dissatisfied with any decision made by the department with regard to this program, he/she has the right to appeal that decision and request a hearing by writing the Director of Licensure.

Paragraph (2) of 0940-03-05-.07 Hearing is amended by deleting the following language “Chapter 4” at the end of the paragraph and by substituting the following language “Title 4” so that as amended the paragraph shall read:

- (1) All such hearings shall be conducted before the Director of Licensure, who is designated by the department to hear such cases and to enter a final judgment in such matters. All such hearings shall be as provided in the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5, Part 3.

Authority: T.C.A. §12—4—330.

The proposed rules set out herein were properly filed in the Department of State on the 13th day of December, 2007 and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of April, 2008. (FS 12-17-07; DBID 2793)

**TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES**

**CHAPTER 0940—03—05
MENTAL HEALTH SUPPORTIVE LIVING FACILITY
QUALITY ENABLING PROGRAM**

ECONOMIC IMPACT STATEMENT

Public Chapter 464, effective June 21, 2007 requires that prior to initiating the rulemaking process pursuant to Tenn. Code Ann. §§ 4-5-202 (a)(3) and 4-5-202 (a), all boards and commissions shall review all proposed rules and the affect that the proposed rule has on small business. The public chapter requires that as a part of its analysis, each agency shall prepare an economic impact statement as an addendum to each rule that is deemed to affect small businesses, which shall be published in the Tennessee Administrative Register, filed with the Secretary of State's Office, and made available to all interested parties, including the Secretary of State, Attorney General, and the House and Senate Government Operations Committees.

Economic Impact Statement:

1. Type of small business directly affected:

Not applicable.

2. Projected reporting, recordkeeping, and other administrative costs:

Not applicable.

3. Probable effect on small businesses:

Not applicable.

4. Less burdensome, intrusive, or costly alternative methods:

Not applicable.

5. Comparison with federal and state counterparts:

Not applicable.

6. Effects of possible exemption of small businesses:

Not applicable.