Administrative/Regulatory Relief Work Group Meeting
April 28, 2009

Alexis Gadsden and Chuck Monson co-chaired our second meeting of the year. Chuck thanked the group for their incredible commitment and continued support of our mission. He also expressed Commissioner Carpenter-Palumbo's appreciation for everyone's hard work and ensured everyone of her continued commitment as we move forward.

Chuck provided the Work Group with highlights from last year and spoke about new initiatives on the forefront for OASAS. The highlights can be found on the OASAS web site at the following link: http://www.oasas.ny.gov/workgroup/admin/overview.cfm. The Work Group's goal for this year is 10 new accomplishments.

New initiatives include:

- **Rockefeller Drug Law Reforms** – Signed into law by Governor Patterson, the Rockefeller Drug Law Reforms eliminate the harsh sentences that the Rockefeller Drug Laws mandated by giving judges total authority to divert non-violent addicts to treatment and greatly expanding drug treatment programs. Additional information can be found at: http://www.ny.gov/governor/press/press_0424091.html

- **Addictions Collaborative to Improve Outcomes for New York (ACTION)** – created by Governor Patterson to address alcohol, drug and gambling additions that affect New Yorkers and will include commissioners from 20 State agencies and collaborate with non-governmental stakeholders, community-based organizations, addiction treatment providers, academic institutions and businesses. This Council will focus on organizing various resources to better develop strategies that improve efforts to identify, treat and prevent addition, and will build upon the recently enacted landmark Rockefeller Drug Law reforms. Additional information can be found at: http://www.ny.gov/governor/press/press_0415091.html

The Commissioner had asked Chuck to remind the Work Group of the "Your Stories Matter" campaign and asked the group to help in recruiting participants. For more information regarding "Your Stories Matter", please go to the following link: http://www.iamrecovery.com/.

Alexis Gadsden addressed the Work Group and apologized for not being able to attend January's meeting and thanked Debbie Pantin, who had graciously co-chaired the meeting with Chuck.

Alexis related to the Work Group that she had been on many collaborative teams in the past and that this group continues to have the best dialogue, maintains professionalism and respect for each other and thanked everyone for keeping the group in tact.

Alexis also provided a summary of the feedback she received regarding the revised Part 822 Outpatient regulations. The majority of the feedback was positive and many of the suggestions/recommendations she received had been addressed by the Part 822 Review Committee.

Alexis also reminded the Work Group of the importance of communication with those providers/staff not at the table and not part of the dialogue. She asked the group to communicate with them so that they know they have a venue and a voice.

Update on Part 822 Outpatient Regulations

Bill Lachanski and Pat Lincourt discussed the status of the draft Part 822 Outpatient regulations. Bill indicated that he received numerous revisions/recommendations from OASAS and the field and thanked the OASAS Review Committee who worked with him on the assessment of the comments/recommendations (Trish Flaherty, Patricia Lincourt, David Herbert, Alan Kott and Kathy Murphy).

Bill announced to the Work Group that the 3 Part 822 immediate action priority items that were adopted February 18th are now posted on the OASAS website.

Bill provided the Work Group with a handout which highlighted the proposed changes. While most of the revisions were well received, there were several revisions which resulted in a lively discussion by the group. These included:

- The regulation regarding the referral for a physical exam was discussed and several issues were brought forward:
    - requiring healthy patients to obtain a physical exam seems excessive and there should be an option to conduct a medical assessment within 45 days to allow for rule out of the need for a physical exam;
    - obtaining previously conducted physical exams is difficult, especially from correctional facilities – it is expected that this issue will be exacerbated with the anticipated Rockefeller Drug Law patients entering the system;
    - providers should not be cited for "good faith effort" when a patient fails to appear for a medical appointment; etc.

- Clarity was provided regarding 822.3(a)(23) – each **service** requires separate identifiable staff and space. Policies and procedures could be for all outpatient services, not necessarily separate for each **PRU** or certified service.
- Clarity was provided regarding mental health screening and brief mental status; they are **two separate** items.
- Clarity was provided regarding individual and group counseling progress notes. There is no longer a requirement for a 5th session note.
- The committee will revise the requirement that utilization review shall be conducted for all active cases on the **365th** day after admission.
- Medical director signature within 10 **days** is defined as calendar days; not business days.

Bill provided the group with another handout describing the proposed changes to Part 822.11(b) requiring medical director certifications. There were numerous concerns among the providers regarding the proposed changes:

- currently can't bill for less than 30 minutes with the physician – is the 1:25 ratio for physician hours sufficient;
- the cost for the required certifications;

- in one program, the physician spends most of his time with Suboxone patients;
- medication visits on the same day as a counseling session;
- medical director board certification and certification for Suboxone presents challenges particularly for rural areas and small programs.

The Work Group was informed that some of the issues identified will be resolved when APGs come into effect and others may be addressed via the waiver process.

Regulatory Update

Rob Kent, Counsel for OASAS, provided the Work Group with an update on the status of OASAS regulations.

- Part 822 outpatient and Part 828 opioid treatment regulations are currently under major revisions; OASAS staff are continuing to review comments received from OASAS staff and the field.
- Part 828 regulations will appear at the back end of the Part 822 regulations once promulgated as OASAS strives to define one outpatient system of care.
- Providers will not be required to provide both Part 822 and Part 828 services, once combined.
- Rob reiterated the need for OASAS to adopt by emergency Part 816 – Chemical Dependence Withdrawal and Stabilization Services to conform to changes in the law affecting crisis services. These emergency regulations became effective December 1, 2008; the OASAS Certification Bureau is in the process of issuing "emergency operating certificates".
- The emergency Part 816 regulations are currently under revision and comments may still be submitted to Counsel's Office. Once revisions are completed, the regulations will follow the standard format for promulgation.
- The regulations page on the OASAS web site is currently under "reconstruction". The new page will allow providers to more easily identify regulation status (current/emergency/proposed) and identify corresponding resources (model case records, frequently asked questions, site review instruments, etc.). The current regulation page is still available during "reconstruction".
- Parts 810 (establishment) 814 (facility) and 836 (incident review) are currently on the back burner, but will eventually be revised.
- Part 857 – Problem Gambling Treatment and Recovery Services - at the current time, gambling providers do not need to be certified; OASAS has been contracting individually with providers to provide gambling services. Eventually, certification will be required; in the meantime, these regulations provide structure (as a start).
- The Part 819 Work Group will reconvene to finalize their recommended changes to the Part 819 regulations and submit them for review and possible amendment to the regulations.

Part 822 Clinical Guidance Document

Pat Lincourt distributed a **draft** Part 822 Clinical Guidance document to the group which was developed to assist providers in understanding the intent of the regulations. Pat has asked the group to provide feedback on the document and a workgroup was formed to continue working on it.

OMH/OASAS Standardized Documentation Initiative

Pat Hartley provided the Work Group with a summary of the Standardized Documentation Initiative currently underway on Long Island that will transform the case record system for mental health and chemical dependence providers based on the federal/state Medicaid regulations, OASAS/OMH regulations, JCAHO, CARF and COA requirements. The consultant firm working with them is MTM Services and additional information can be found at: mtmservices.org.

Unified Reporting

The Work Group was informed that the Unified Reporting Work Group will reconvene and will continue to work with OCA to create a Unified Patient Progress Report form.

Waiver Issues

Mark Boss, OASAS Counsel, joined the Work Group to discuss the waiver review process and to answer questions. Mark can be reached at (518) 485-2320 or you can e-mail him at: markboss@oasas.ny.gov.

- Mark informed the Work Group that the Waiver Review Committee has revised it schedule and has been meeting monthly instead of quarterly. The change in schedule will allow for a quicker response to waiver requests. Mark also indicated that they are in the process of categorizing and analyzing the last 5-6 years of approved waivers, which will be posted on the OASAS website when completed. Categorizing and analyzing common waivers can possibly result in regulation changes to reduce the need for future waiver submissions.
- Mark indicated that there are some waiver requests that automatically get renewed when submitted (i.e., number of bathrooms in a facility), but other waiver requests get reviewed on an individual basis (i.e., staffing issues as the quality of service can suffer if staffing shortages continue to be extended).
- Regarding the issue of submitting one waiver for all of a provider's facilities, Mark indicated that a provider can do this if they submit a cover letter indicating their intent of the waiver to cover all facilities, identification of the regulation to be waived, the rationale across all of the facilities (can be uniformly waived for each facility) and an expiration time frame for consideration as waivers are currently tied to the operating certificate expiration dates.

A new Waiver Committee Work Group was formed to discuss comments/ suggestions/revisions to enhance the Waiver Review Committee process. Any suggestions/comments you have can be submitted directly to Joe Chelales.

Smart Records

- Joe Chelales presented a PowerPoint to the Work Group which provided additional information into the Standardized Documentation Initiative previously discussed. The goal is to provide standardized documentation across OMH, OASAS and Office of Children's Services. A new workgroup was formed to update and create new forms with a manual for use.

- The Smart Records Work Group was developed to focus on reducing patient case record documentation. The average reduction in paper in a patient case record has been 15 pages; the maximum, 29 pages. Two Work Group providers in attendance at the meeting expressed their satisfaction with the process and indicated that it was very helpful.

- The group is in the process of developing guidelines on what should be in a Patient Handbook. The goal of the handbook is to assist providers in eliminating paperwork and reducing redundancy in the patient case record while continuing to inform the patient of the requirements/rules for participation in the program. The handbook will require 1 signature and will also include a disclaimer.

New Subcommittees

- A Clinical Guidance Document subcommittee was formed; members will work with Pat Lincourt in finalizing a draft guidance document to assist providers in understanding the intent of the Part 822 regulations.
- A Standardized Documentation Initiative subcommittee was formed; members will work with Joe Chelales to update and create standardized forms that can be utilized across State reporting agencies, with a manual for use.
- A Waiver Review subcommittee was formed to discuss comments/ suggestions/revisions to enhance the Waiver Review Committee process.
- The Part 819 subcommittee will reconvene to review previously submitted comments submitted to OASAS Counsel to determine if additional comments/recommendations will be submitted. (Update: Joe Chelales submitted the previously agreed upon comments/recommendations from the Part 819 subcommittee to Counsel's office on May 11th.)

Next Steps

- Any additional Part 822 and Part 828 comments should be e-mailed to Bill Lachanski at: williamlachanski@oasas.ny.gov for review by the OASAS Review Committee.
- Comments/recommendations regarding the draft Part 822 Clinical Guidance document should be e-mailed to Pat Lincourt at: patlincourt@oasas.ny.gov.
- Comments/recommendations for all other regulations can be e-mailed to: albanylegal@oasas.ny.gov.
- Comments/suggestions regarding the Waiver Review process can be e-mailed to Joe Chelales at: josephchelales@oasas.state.ny.us.

Chuck and Alexis both thanked the group for a great meeting. Each subcommittee should report back any progress made by August 17th and the entire Work Group will meet again in Albany on September 15th. **Have a great summer!**