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WEST VIRGINIA
Department of



West Virginia Interagency Consolidated Monitoring Manual of Out-of-State Residential Facilities

Effective July 2012



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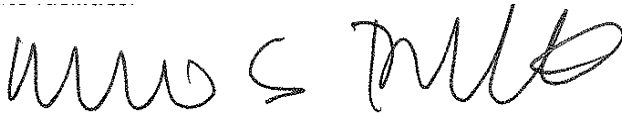
FOREWORD

The West Virginia Department of Health and Human Resources (WVDHHR) is authorized by West Virginia State Code §49-2-16 to provide care, support and protective services for children who are in need of public service. The WVDHHR is also authorized to accept custody of children committed to its care by the courts. As the agency that administers the care and custody of children, WVDHHR has the authority to place children in a suitable environment and with persons or facilities having the appropriate qualifications to provide the necessary and desirable degree and type of care.

The West Virginia Department of Education (WVDE) is committed to preparing students to be competitive in the 21st century workplace. All students will have the opportunity to engage in instruction relevant to rigorous content standards and objective, with attention to their unique learning needs.

The West Virginia Legislature created *The Commission to Study Residential Placement of Children* to establish a mechanism to achieve systemic reform by which all of the state's child-serving agencies involved in the residential placement of at-risk youth jointly and continually study and improve upon this system. This includes making recommendations to their respective agencies and to the Legislature regarding funding and statutory, regulatory and policy changes. Among the thirteen topics of study the legislation outlined when it formed the Commission, was to develop ways to certify out-of-state providers to ensure that children who must be placed out-of-state receive high quality services consistent with this state's standards. As part of this charge, the WVDHHR and the WVDE have joined efforts to develop and implement a collaborative monitoring system to review out-of-state facilities providing treatment and educational services to West Virginia youth. This manual provides important details regarding the policies and processes associated with the consolidated monitoring system.

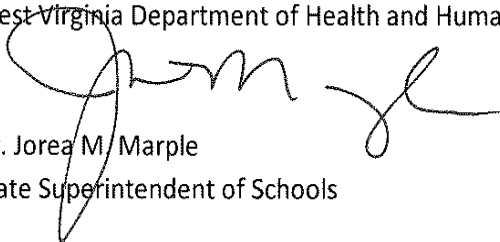
The Commission fully supports the work of these departments as they fulfill their responsibilities to the youth of West Virginia. We commend the significant efforts of the dedicated individuals who have worked diligently to implement a meaningful consolidated monitoring process. Furthermore, we thank them for delivering on the promise to develop effective ways to assess the quality of the services in out-of-state facilities.



Rocco Fucillo

Cabinet Secretary

West Virginia Department of Health and Human Resources



Dr. Jorea M. Marple

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Introduction

Members/Students placed by the West Virginia Department of Health and Human Resources in Out-of-State Facilities for Non-Educational Purposes

West Virginia Code of State Regulations (CSR), Chapter 49 Child Welfare, provides a coordinated system of child welfare and juvenile justice for the children of West Virginia. It provides for removing a child from the custody of his parents and to secure custody, care and discipline for the child consistent with the child's best interests. The West Virginia Department of Health and Human Resources (WVDHHR) is designated as the agency that administers child welfare services in West Virginia.

The WVDHHR is authorized by West Virginia CSR §49-2-16 to provide care, support and protective services for children who are in need of public service. The WVDHHR is also authorized to accept custody of children committed to its care by the courts. A child committed to the WVDHHR for custody remains in the care of the Department until he attains the age of 18 years, is discharged because he is no longer in need of care, or up to 21 years of age under the jurisdiction of the court.

As the agency that administers the care and custody of children, WVDHHR has the authority to place children in a suitable environment and with persons or facilities having the appropriate qualifications to provide a necessary and desirable degree and type of care.

For students with disabilities, each state has a responsibility, under federal statute and regulation, to have a system of general supervision that monitors the implementation of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) by local education agencies (LEAs). The state system is accountable for enforcing the requirements and for ensuring continuous improvement. As stated in Section 616 of the 2004 amendments to the IDEA, "The primary focus of federal and state monitoring activities is to improve educational results and functional outcomes for all children with disabilities and ensure that states meet the program requirements under this part, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities." In addition, The West Virginia CSR §18-20, Education of Exceptional Children, requires the West Virginia Department of Education (WVDE) to assure all students with exceptionalities receive an education in accordance with state and federal laws and regulations.

The purpose of these procedures is to clearly outline the components of the WVDHHR and the WVDE Interagency Monitoring System with regard to monitoring of out-of-state facilities for compliance with requirements of the IDEA, West Virginia CSR, and West Virginia Board of Education Policy 2419: *Regulations for the Education of Students with Exceptionalities*, and Conditions of Participation (CoP) found in 42 CFR Subpart A, Definitions §440.160, Subpart D, Inpatient Psychiatric Services for individuals under age 21 in Psychiatric Facilities or Programs, §441.150 - §441.182, Subpart G, Condition of Participation for the Use of Restraint or Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services for Individuals Under Age 21, §483.350 - §483.376.

Commission to Study Residential Placement of Children

West Virginia Code §49-7-34 establishes the Commission to Study Residential Placement of Children. The Commission has been actively involved in carrying out their responsibilities since 2005. The Commission was to study and provide recommendations regarding:

- Current practices of placing children out-of-home and into residential placements, with special emphasis on out-of-state placements and,
- Ways to certify out-of-state providers to ensure that children receive high quality services consistent with this state's (West Virginia) standards of licensure and rules of operation.

As a result of the Commission's work, recommendations currently being implemented include:

- Requirements that out-of-state placements be made **only** to providers meeting West Virginia standards of licensure, certifications, and expected rules of operation and,
- Requirements that ensure education standards are in place and members/students are fully receiving the appropriate education services in all out-of-state facilities where West Virginia children are placed.

The WVDHHR through the Bureau for Children and Families (BCF), Bureau for Medical Services (BMS), and the WVDE, Office of Special Programs (OSP) are engaged in a collaborative effort to evaluate and monitor the quality of services provided by out-of-state facilities. This is to ensure children are in a safe environment and are provided behavioral health treatment and educational services commensurate with acceptable standards as set forth by the WVDHHR and the WVDE.

Individual Bureaus

West Virginia Medicaid will use several review processes to assure that West Virginia Medicaid Members are being provided services according to West Virginia Standards of Practice.

The Out-of-State Certification Team representing the WVDHHR and the WVDE will conduct on-site reviews of facilities out-of-state that are providing services for West Virginia Medicaid children. Focus will be on **all** West Virginia Medicaid members. West Virginia's ultimate goal is to solicit services from only facilities having demonstrated success in promoting positive growth and expected outcomes for children as defined within the West Virginia Out-of-State Facilities Standards. The WVDHHR (BCF and BMS) and then WVDE have entered into an agreement to support sanctions found by all parties involved in the Certification Process Reviews. If BCF or WVDE identify deficiencies that would cause sanctions to be imposed, BMS will honor those sanctions also. Likewise BCF and WVDE will honor BMS sanctions.

The BMS's Utilization Management Contractor conducts reviews of both in-state and out-of-state facilities as requested by BMS. Sanctions for deficiencies will be determined and imposed by BMS for those reviews.

The Office of Quality and Program Integrity (OQPI) within the BMS is responsible for the evaluation of the medical necessity, appropriateness, adherence to current medical practice standards and conformance to nationally accepted billing practices. The reviews may involve the use of exception criteria, provider and member profiles, ad hoc reports obtained from the Medicaid Management Information System (MMIS), and examination of provider records.

Monitoring Practices and Tools

In developing the consolidated monitoring system, there was attention to using best practices for ensuring effective and efficient monitoring occurs, especially in on-site visits. Each agency deploys one or more tools as part of their monitoring process. Appendix A lists the current tools used and website where each can be located. As part of the monitoring work, the Out-of-State Monitoring Team debriefs after each review to look for ways to improve the overall process.

ON-SITE MONITORING REVIEW

Pre-Site Visit Activities

Selection of Out-of-State Facilities for Monitoring

Annually, a collaborative team composed of WVDE and WVDHHR staff review the current list of WV members/students placed in out-of-state facilities receiving treatment and general education and/or special education services. A minimum of five (5) facilities will be selected for on-site monitoring each year. The following criteria are considered when selecting sites for on-site monitoring visits:

- Facilities with the highest number of members/students placed;
- Facilities failing to comply with contractual agreements;
- Facilities with reported injury to members/students, particularly WV members/students;
- Facilities not receiving a visit for a number of years;
- Facilities at greater distance from WV with few members/students enrolled, and
- Facilities reported as noncompliant from an outside entity.

Determination of Schedule and Issues

Scheduling for the on-site reviews will be based on the location and number of WV members/students placed in the facility. Facilities with larger numbers of WV members/students placed may require a visit of four (4) to five (5) days whereas a facility with fewer numbers of WV members/students may only require two (2) to three (3) days. The following is an example of a schedule:

Day 1

Entrance Conference

Facility tour

Interviews with educational administrators

Interviews with educators

Interviews with nursing staff

Interviews with clinical staff

Review of all facility licenses including: Facility license with capacity, annual surveys, OSHA reviews, behavioral health license, national accreditation certificate, and Fire Marshal certification.

Review of policies and procedures

Review of finances

Review of resident files

Interviews with other staff as needed

Day 2

Review of resident files (continued)

Review of professional development provided

Review of personnel files

Tour of the nursing facility

Inspect medication/first aid storage

Observe medication passes

Interviews with staff (continued)

Review of policies and procedures (continued)

Day 3

Classroom observations
Interviews with members/students
Interview with staff (continued)
Review of resident files (continued)
Review of policies and procedures (continued)
Observe treatment team meeting
Observe therapy session
Services environment inspection

Exit Conference

Notification

Approximately six (6) weeks prior to the scheduled on-site visit, written notification and a follow-up phone call are provided by WVDHHR to the facility selected for monitoring. Each agency then contacts appropriate personnel at the facility in planning the on-site visit which includes: required documentation, available staff for interviews, all files for each WV resident enrolled, facility licensure/certification, policy and procedure manuals, personnel records, and in-service training of staff. Tools utilized for the review will be emailed to the main contact on file two weeks prior to the review date. Administrative/clinical staff must be available during the length of the on-site review. Other service providers must be made available as needed for interviews and data collection of specific services. One week prior to the on-site visit, staff and resident schedules for the dates of the on-site visit must be provided to the reviewing agencies.

On-Site Activities

Entrance Conference

A meeting is schedule on the first day of the on-site visit with the facility's administrator and staff. The monitoring team will make introductions and review the required activities to be conducted during the on-site visit. The facility will provide a brief overview of programs and services and ask any additional questions as needed. The building administrator or special education administrator should be available to the monitoring team throughout the on-site review to answer questions or clarify items. The on-site monitoring schedule should be shared with facility staff. In addition, adequate space and a quiet area should be made available to the team for interviewing personnel and reviewing documentation.

Facility Tour

The facility staff will provide a walk-through of the complete physical plant with the entire monitoring team. Include available staff to answer any questions which may arise during the walk-through. This provides a snap-shot of the daily life of members/students enrolled in the facility.

File Reviews

WVDE/WVDHHR

Resident Files

Resident file reviews are an essential component of the monitoring process. Resident file reviews assist the team in determining the facility's strengths and weaknesses with the implementation of IDEA and the applicable state policies and procedures. All members'/students' educational files (with a maximum 15) and all incident reports will be

reviewed. At least 10% of the records of West Virginia children who are residents at the facility will be reviewed for adequacy of intake procedures, health and dental evaluations and maintenance, family involvement and visitation, adequacy and appropriateness of plan of care, life skills assessment, involvement with the MDT, involvement of the guardian, services provided, MCM-1 on file, incident reports, previous medical and mental health history, discharge planning and medication administration procedures. Information contained in the record will be compared with information provided on CareConnection ® requests.

Personnel Files

Personnel files will be reviewed for official credentials and professional development received. As stated in the contractual agreement with the WVDE, special education and related services are to be provided by certified personnel in accordance with a current revised IEP with participation of the assigned WV LEA. WVDHHR staff will review a selection of the facility's personnel files for appropriate documentation of credentials, staff training, background check procedures, and medical examinations. Licenses will be evaluated to ensure renewal occurs at the required interval and that the documentation is contained in each staff member's file.

Complaints/Grievances Files

WVDHHR will review complaints and grievances against the agency by residents and review child abuse and neglect investigations conducted within the facility for the past year, especially those involving West Virginia children.

Financial Records

The facility shall make available the financial officer to discuss billing for special education and related services as stated in the contract. Required documentation to receive payment includes: individual invoices for each resident, monthly attendance reports for each resident, current revised IEP with LEA participation, and a copy of the court ordered custody agreement. Services identified in the IEP will be verified through resident and provider schedules to ensure accurate billing to the WVDE.

Interviews

Interviews will be conducted with administrative staff, direct service staff, medical personnel and school personnel as part of the investigative process. Interviews may include the educational administrator, special education and general education personnel, the financial administrator and other personnel as determined by the monitoring team. The monitoring team will select which facility personnel will be interviewed and the facility is required to have a location available in which to conduct the interviews. Interviews are scheduled to provide sufficient time for the monitoring team to complete the interviews and write summary notes prior to the next interview. Interviews are considered confidential. At no time is the process to be rushed even if it means returning the next day to complete the interviews.

In addition, as appropriate, resident interviews will be conducted. The monitoring team selects the members/students to be interviewed. As stated above, the facility is required to have a location available in which to conduct the interviews.

Exit Conference

At the conclusion of the monitoring visit, an exit conference is scheduled with the facility administrator and other staff at the facility's discretion. Each agency will review the information gathered, identify preliminary findings and provide the facility an opportunity for discussion.

Final Report

A consolidated written report will be issued to the facility administrator within 30 calendar days of the exit conference. Each report will consist of recommendations for educational improvement, any child-specific and/or systemic findings of noncompliance under IDEA, WV state policies, WV state and federal codes, WVDHHR rules, policies and procedures. Corrective action plans may be imposed.

Corrective Action Plan

Corrective activities and the improvement plan must be received within 30 days of the cover letter of the compiled report. Upon receipt of corrective activities, the WVDE/BCF/BMS will review the facility's documentation to determine compliance. If the documentation is deemed unacceptable to meet the standards, the facility must respond and complete further actions as required on or before the date specified in the written notice. Timelines for corrective activities and improvement plans will only be extended under exceptional circumstances and must be approved by the applicable agency. Upon verification of completing the corrective activities, the WVDHHR and WVDE will issue a certification. Corrective activities shall be initiated within 30 calendar days of acceptance of the corrective action plan and **in no case** shall findings of noncompliance remain uncorrected beyond one year from the date of the written report.

Enforcement and Sanctions

Failure to Meet Compliance

Enforcements and sanctions will be determined on a case-by-case basis and on the severity of the noncompliance.

Enforcement Sanctions

- Completion of mandatory technical assistance;
- Temporary suspension of future placement/admission of all WV members/students;
- Withhold all funds until findings of noncompliance are corrected;
- Recoupment of inappropriately paid funds;
- Removal of all WV members/students currently placed;
- Permanent disenrollment of future placement/admission of all WV members/students; and/or
- Referral to fraud.

The decision of which enforcement sanction to take will be made through consultation with key leadership members of the Bureau for Children and Families, the Bureau for Medical Services and the West Virginia Department of Education.

Appeals of Monitoring Findings

Review organizations for medical services, pharmacy and mental health services that are under contract to BMS are the final clinical authority. With regard to educational findings of noncompliance, if within 30 calendar days of receipt of the monitoring report the out-of-state facility concludes the evidence of a finding is inaccurate, the out-of-state facility may file a written appeal requesting reconsideration of a specific finding. Documentation substantiating the finding in question must be submitted to the OSP prior to, or in conjunction with implementation of the corrective activities. The OSP will review the appeal and if the facts contained in the report are refuted by evidence submitted, the finding will be withdrawn. Request for reconsideration of a finding or for technical assistance will not delay the implementation of corrective activities.

Glossary

Certification: A written authorization that the facility's regulations, policies, procedures and practices are recognized to have the same or similar intent as West Virginia's. The written authorization is not legally recognized in the same fashion as licensure and should not be confused with West Virginia's licensure process.

Complaint: A formal conveyance of concern and/or dissatisfaction made by any individual on behalf of a West Virginia child placed in an out-of-state facility that pose a threat to the quality of life of the child. A complaint is always evaluated for content of allegations of child abuse and/or neglect. For the purposes of this policy, however, a complaint does not rise to the level of West Virginia's and/or the facility state's definition of child abuse and/or neglect.

Complaint Investigation: The process of determining the validity of a complaint regarding a child and determining a course of action to ameliorate the concern.

Complaint Investigation Entities: Complaints will be investigated by members of the two Licensing Entities. Staff from the West Virginia Medical Institute (WVMI), APS Health Care and the Department of Education will participate, as indicated by the complaint.

Out-of-State (OOS) Facility: Any residential child care facility not within the borders of West Virginia.

Out-of-State (OOS) Placement: The placement of a student with a disability in a school/facility located outside of the state for special education and related services.

On-site Visit: The process during which West Virginia's certification entities make in-person inspections and examinations of a facility's records, physical plant, etc., as well as face-to-face interviews with facility staff and residents.

Desk Review: The process during which the licensing entities evaluate a facility's self-assessments, policies, procedures and supporting documentation. This review process will be the sole format for certifying facilities where low numbers of West Virginia children are placed.

Review Tools: The tools used by the certification entities to measure compliance with West Virginia's laws, rules and regulations. Specifically: documents containing West Virginia's Residential Child Placing Regulations (78 CSR 3) used by the Licensing Specialist, Medicaid compliance documents used by APS Healthcare and WVMI staff and an Administrative Checklist for Out-of-State Facility On-Site Monitoring used by the WVDE, OSP.

Review Cycle: For the purposes of this policy, the on-site review cycle for the five most frequently used out-of-state facilities shall be every two years, or as indicated by specific facility circumstances. The remaining out-of-state facilities will undergo a desk review every two years.

APPENDIX A
Monitoring Tools

BMS Tools <http://www.dhhr.wv.gov/bms/Pages/default.aspx>

- A. PRTF Clinical Record Review
- B. OOS Non-Clinical Alternative Placement Clinical Record Review
- C. APS Healthcare Review Document
- D. Residential Level I Clinical Record Review
- E. Residential Level II Clinical Record Review
- F. Residential Level III Clinical Record Review

WVDE Tools <http://wvde.state.wv.us/osp/compliance/procedures-out-of-state.htm>

- G. Administrative Checklist for Out-of-State Facility On-Site Monitoring
- H. Self-Assessment for Out-of-State Facility
- I. Out-of-State Facility On-Site Monitoring Special Education Interview Protocol
- J. School Walk-Through Checklist
- K. Student Interview

BCF Tool <http://www.wvdhhr.org/bcf/ResChildCareLic/default.asp>

- L. OOS Review Checklist