

Concise Explanatory Statement

Post-comment regulatory changes: The Office of Mental Health Advocate submitted public comments in response to the proposed final rule that addressed several issues, two of which resulted in further amendments to the proposed final rule. The first comment related to the process of giving notice of discharge from an Enhanced MHPRR (group home) and the rights to appeal, and the second comment related to Enhanced MHPRRs needing to obtain "facility status" to provide treatment pursuant to the R.I. Mental Health Law. Pre-public comment overview of the reason for regulatory action/change: These regulations are being issued so that BHDDH may license Enhanced Mental Health Psychiatric Rehabilitative Residences (E-MHPRR) group home beds which will allow discharge of psychiatric inpatients who no longer require "hospital level of care." The new language is approximately ten pages long and begins on page 57 in the attached 88-page BHO regulations.

On December 19, 2022 (and updated on January 17, 2023), the federal Centers for Medicare and Medicaid Services (CMS) approved BHDDH to begin licensing a new type of group home, Enhanced Mental Health Psychiatric Rehabilitative Residences (E-MHPRRs) that will be reimbursable by CMS/EOHHS at a much higher daily rate (\$525) than the two traditional group home categories that BHDDH already licenses (Basic and Specialized MHPRRs). It is anticipated that one new residence will open in September 2023, with this new type of license. The Department anticipates that there will be a total of eight E-MHPRRs in operation by the close of SFY 34.

Some inpatients at the Eleanor Slater Hospital, the Rhode Island State Psychiatric Hospital and psychiatric inpatient units at community hospitals are ready for discharge to a less restrictive level of care; and, because those patients require additional services beyond those offered in the B-MHPRRs and S-MHPRRs, the creation of a level of care above those existing rehabilitative residences was identified as urgent and necessary. No such enhanced rehabilitative residence category currently exists; therefore, agencies have not had the financial ability to provide staff or services necessary to accept these discharge-ready inpatients in the community and to avoid re-hospitalization. E-MHPRRs will have a higher staff-to-client ratio, a lower bed capacity, and will provide more intensive services than are currently offered in existing MHPRRs.

Another overlapping concern is that some inpatients at the State-operated hospitals have been determined to be ready for discharge from the hospital, but no existing MHPRR is capable of providing the level and intensity of services that these individuals require. The new E-MHPRRs will allow the placements to be eligible for Medicaid reimbursement consistent with CMS approval of the State Plan Amendment. Currently, none of those costs incurred at the RI State Psychiatric Hospital are reimbursable by Medicaid.

There also is an urgent need to discharge individuals who are patients in psychiatric inpatient units at community hospitals who no longer require hospital level of care but whose needs exceed the abilities of a traditional group home. Continued unnecessary hospitalization and not receiving the appropriate level of treatment creates an imminent peril to the patients' health, safety and/or welfare, as do continued waiting lists for patients to be admitted to the State-operated hospitals when their beds are fully occupied, a significant number of which are used for patients ready for discharge. With a new opportunity for increased federal funding to provide a more intensive level of service and residential placement, the regulation will address an urgent community and public health need.