

MHDS Regional Operational Guidance 2023-01- Revised
July 5, 2023

TO: Mental Health and Disability Services Regions
FROM: Iowa Department of Health and Human Services (HHS),
Division of Behavioral Health and Disability Services
SUBJECT: HF 471 Implementation
EFFECTIVE: July 1, 2023

Authority

House File 471 was passed during the 2023 legislative session and was signed into law on June 1, 2023. This legislation includes changes to regional governance structure and voting requirements as well as the addition of Outpatient Competency Restoration (OCR) as a core service.

Regional Governance

To achieve a better balance between elected county officials and other stakeholders, the legislation changes the composition of Regional Governing Boards:

- Adds new requirement for membership to include a law enforcement representative and a judicial system representative.
 - Judicial system will be the same as defined in Iowa Code 602.1102: *The judicial branch consists of all of the following: 1. The supreme court. 2. The court of appeals. 3. The district court. 4. The clerks of all of the courts of this state. 5. Juvenile court officers. 6. Court reporters. 7. All other court employees.*
 - Law enforcement means sworn and non-sworn law enforcement personnel employed by state, county, city, or tribal government as defined in Iowa Code 80B.3. State and local Correctional officers and Community-Based Corrections personnel (probation and parole) shall be considered law enforcement.
- The legislation sets a requirement that county board of supervisors' representatives are not to exceed 49 percent of the board membership. Because there are a total of seven non-elected stakeholder members, there will be a maximum of six representatives from county boards of supervisors. A board may not put additional non-elected officials on the board.

- The legislation also specifies that each member of the regional governing board shall have one vote. This change means that regions will no longer be able to use weighted voting procedures. Additionally, representatives of service providers who were previously designated as non-voting members will have a vote.

Action items for regions:

- Update 28E agreements to reflect the new board composition requirements and voting procedures. On previous 28E templates utilized by MHDS regions, these are found in *Section 4 – Governance*. Regions are encouraged to consult counsel to assure compliance and cohesiveness in the context of recent changes to state law (e.g. reference to a county property tax levy; outdated code references).
- Update the Annual Service and Budget Plan (ASBP) document to reflect the new board membership.
- Update policy and procedure manuals to include conflict of interest policies and procedures for all governing board members, including requirements to disclose any potential conflict of interest, and to prohibit participating in or influencing any vote in which there is a potential financial or other beneficial impact on the board member or any organization they represent.

Additional CORE Service

HF 471 also adds OCR as a required core service for both adult and children, as well as clarifies in Iowa Code 812 that the region is responsible for payment for OCR for persons found incompetent to stand trial but who meet certain qualifications for pretrial release. Iowa HHS will expect regions to participate with the department in the development and implementation of OCR services. HHS will release further guidance on this effort.

Action items for regions:

- Amend ASBPs to add funding for OCR services. HHS will request new Chart of Accounts (COA) codes for expenditures related to OCR services.

Code Section Transfers

The legislation also moves the Iowa Code sections that govern regional functions from Chapter 331 to Chapter 225C. The table below provides a crosswalk between the affected sections.

Current Section	New Section	Subject
331.388	225C.55	Definitions
331.389	225C.56	MHDS Regions – Criteria
331.390	225C.57	Regional Governance Structure
331.391	225C.58	Regional Finances
331.392	225C.59	Regional Governance Agreements

331.393	225C.60	Regional Service System Management Plan
331.394	225C.61	County Of Residence — Services to Residents — Service Authorization Appeals — Disputes Between Counties or Regions.
331.395	225C.62	Financial Eligibility Requirements
331.396	225C.63	Diagnosis – Functional Assessment
331.396A	225C.64	Eligibility Requirements – Children’s Behavioral Health Services
331.397	225C.65	Regional Core Services
331.397A	225C.66	Children’s Behavioral Health Core Services
331.398	225C.67	Regional Service System Financing
331.399	225C.68	Governmental Body
331.400	225C.69	Quarterly Reports

Action items for regions:

- Make corresponding changes in 28E agreements and all regional service management plan documents

Implementation Timeframes

By August 1, 2023, submit to HHS proposed 28E agreements. If the region is unable to prepare the new 28E by this date, submit to HHS the region’s plan for amending the 28E agreement, including proposed timeframes.

By September 30, 2023, submit to HHS an updated Policy and Procedure manual.

When new COA codes for OCR services become available, submit an updated ASBP within 30 calendar days. The updated ASBP must also include the updated governing board membership.

- In the event a region would need to reimburse for OCR services prior to the publication of new COA codes, please use code 46399 - *Justice system-involved services-other* for OCR services purchased from an outside entity & 25xxx *Coordination services* for OCR case management provided by regional staff. Use a CSN project code to discriminate between existing services and those associated with the new core OCR service.

Associated changes within the regional Annual Report and any other documents will be completed according to their normal timeframes.

INQUIRIES:

For further information, contact Rob Aiken at raiken@dhs.state.ia.us or 515-669-8002 or Don Gookin at dgookin@dhs.state.ia.us or (515) 669-8001.