

The actuarial firm employed by the Department of Health (DOH) must certify the actuarial soundness of the premium rates to Centers for Medicare and Medicaid Services (CMS). The reduction of the rate component for surplus/reserves by 2% would result in rates that were not actuarially sound, as such rates would be insufficient to support the contingent reserve requirement specified in § 98-1.11(e)(1). As a result, the contingent reserve requirement for Medicaid product lines was reduced from 10.5% to 7.25% of premium revenue. This change was implemented in regulations promulgated on an emergency basis effective July 7, 2011 and adopted permanently on February 15, 2012.

The new revision to 98-1.11(e) maintains the 7.25% contingent reserve requirement through calendar year 2025. This will permit DOH to maintain the 2% reduction in the premium rates and allow the State's actuary to certify the actuarial soundness of the premium rates to CMS.

Costs:

The amended regulation imposes no compliance costs on state or local governments. There will be no additional costs incurred by the Health Department or by the MCOs.

Local Government Mandates:

The regulation imposes no new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district or other special district.

Paperwork:

Paperwork associated with filings to DOH or Department of Financial Services should be minimal and would be no more substantial than the current regulation requires.

Duplication:

These regulations do not duplicate, overlap, or conflict with existing State and federal regulations.

Alternatives:

Revisions to § 98-1.11(e) are needed to ensure the actuarial soundness of Medicaid Managed Care premium rates. No alternatives were considered since Medicaid premium rates are set by the State actuary and with a built-in profit of 1% which is not sufficient to accommodate reserve increases without jeopardizing the soundness of the rates.

Federal Standards:

The rule does not exceed any minimum standards of the Federal government for the same or similar subject area.

Compliance Schedule:

Managed care organizations should be able to comply with the proposed regulations upon publication of the Notice of Adoption.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse impact on facilities in rural areas, and it does not impose reporting, record keeping or other compliance requirements on facilities in rural areas.

Job Impact Statement

A Job Impact Statement for these amendments is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities.

Office of Mental Health

NOTICE OF ADOPTION

Relating to Residential Treatment Facilities (RTF)

I.D. No. OMH-11-24-00017-A

Filing No. 524

Filing Date: 2024-06-12

Effective Date: 2024-07-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Repeal of Part 583; addition of new Part 583; amendment of Part 584 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09 and 31.04

Subject: Relating to Residential Treatment Facilities (RTF).

Purpose: To provide clarity and provide uniformity relating to RTF's and to implement Chapter 58 of the Laws of 2020.

Text or summary was published in the March 13, 2024 issue of the Register, I.D. No. OMH-11-24-00017-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Sara Paupini, Esq., Office of Mental Health, 44 Holland Ave., Albany, NY 12229, (518) 474-1331, email: regs@omh.ny.gov

Revised Regulatory Impact Statement

1. Statutory authority: Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction, and to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for adults diagnosed with mental illness or children diagnosed with emotional disturbance, pursuant to an operating certificate.

Section 31.26 of the Mental Hygiene Law provides for the establishment of the subclass of hospitals known as residential treatment facilities (RTF) for children and youth which provide active treatment under the direction of a physician for individuals who are under 21 years of age.

Article 31 of the Mental Hygiene law provides authority to issue operating certificates and to examine and inspect facilities to determine their suitability and operation.

2. Legislative objectives: Articles 7 and 31 of the Mental Hygiene Law reflect the Commissioner's authority to establish regulations regarding mental health programs and section 9.51 authorizes the establishment of residential treatment facilities for children and youth. The proposed rule furthers the legislative policy of providing high quality mental health services to individuals with mental illness in a cost-effective manner.

3. Needs and benefits: The State is looking to streamline the admission process to residential treatment facilities to ensure that youth are accessing these services appropriately and to clarify the often complicated process for families and those supporting such youth. These changes update the language of the regulation, provide additional clarification and implement Chapter 58 of the Laws of 2020 and Mental Hygiene Law Section 9.51. These provisions were amended to remove the pre-admission certification committee process in favor of a more streamlined and centralized application process. Part 583 is added to provide for the establishment of procedures for accessing residential treatment facility services, a Medicaid eligible service; to articulate the criteria for determining eligibility of an individual to apply for admission or transfer to a specific residential treatment facility for children and youth; and to specify the procedures to be used in determining eligibility and priority for admission or transfer to residential treatment facility for children and youth. The proposed amendments to Part 584 would provide updated definitions for admission criteria, alternate care determination, continued stay criteria and adds definitions for designated mental illness, medical necessity and severe emotional disturbance. The rule would amend 584.7 to add "continued stay" criteria and replace reference to "admission criteria" with "medical necessity criteria" and revise language to indicate discharge criteria must at minimum indicate medical necessity criteria is no longer met. Section 584.8 (Admission, Transfer, Continued Stay and Discharge Policies and Procedures) is amended to remove references to Pre-Admission Certification Committee (PACC) and provide that RTF's will admit youth with an authorization to access RTF services, provide "designations of priority" for admission, provide that notices from RTFs are required to be provided to family, referral source, OMH and youth's county of origin, remove reference to 30 days turnaround requirement for evaluations for admission, provide that admission determinations must be based on the RTF's admission criteria, provide for an exemption through OMH where the RTF declines the youth for admission for a reason not based on admission criteria and require a plan for discharge prior to the youth turning 22. Section 584.14 is amended to update the reference from "committee on handicap" to CSE. Section 584.16 is amended to remove reference to PACC and add reference to evaluation of eligibility, update reference from "committee on handicap" to CSE and provide an updated discharge goal. This section also establishes authorization for access to RTF services will occur by OMH or designee and must be obtained prior to RTF admission and requires medical necessity determination notification to county upon referral, outcomes of referral.

4. Costs:

(a) cost to State government: Costs will be minimal as the Office seeks to maximize existing regional staff to execute this role.

(b) cost to local government: These regulatory amendments will not result in any additional costs to local government.

(c) cost to regulated parties: These regulatory amendments will not result in any additional costs to those regulated parties.

5. Local government mandates: These regulatory amendments will not result in any additional imposition of duties or responsibilities upon county, city, town, village, school or fire districts.

6. Paperwork: No substantial increase in paperwork is anticipated as a result of the amendments.

7. Duplication: These regulatory amendments do not duplicate existing State or federal requirements.

8. Alternatives: No alternatives were considered, as these amendments seek to conform regulations to State law. Not promulgating these rules would lead to an inconsistent application of regulations and State law.

9. Federal standards: The regulatory amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: This rulemaking will be effective upon publication of the Notice of Adoption in the State Register.

Revised Regulatory Flexibility Analysis

No Regulatory Flexibility Analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments. The amendment to the regulation seeks to streamline the pre-admission process for residential treatment facilities to improve the timeliness, uniformity and efficiency of the process.

Revised Rural Area Flexibility Analysis

No Rural Area Flexibility Analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed rule will not impose any adverse economic impact on rural areas; therefore, a Rural Area Flexibility Analysis is not necessary with this notice.

Revised Job Impact Statement

The amendments to 14 NYCRR Parts 583 and 584 are intended to provide regulatory relief and streamline the eligibility determination for residential treatment facilities to improve the timeliness, uniformity and efficiency of the process.

It is evident from the subject matter of this rule that it could only have a positive impact or no impact on jobs or employment, therefore a Job Impact Statement is not necessary with this notice.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2027, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

Comment: A Commentor supports amendments to the regulation to require additional reporting requirements from Residential Treatment Facilities (RTF) to the Office to increase visibility into the needs of youth served in the mental health system and to create appropriate interventions.

Response: The Office appreciates the comment, and notes that such reporting requirements are incorporated into the regulation in Part 584.20. As such no amendments are required.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Technical Amendments and Additions to State Regulations

I.D. No. PSC-27-24-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Parts 10 and 255 of Title 16 NYCRR.

Statutory authority: Public Service Law, sections 5, 65 and 66

Subject: Technical amendments and additions to state regulations.

Purpose: To ensure the safe and adequate operation of pipelines in New York State.

Substance of proposed rule (Full text is posted at the following State website: <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=24-G-0182&CaseSearch=Search>): The Public Service Commission (Commission) is considering amendments and revisions to sections of the New York Codes, Rules and Regulations (NYCRR) relating to gas pipeline facilities. The proposed changes

are intended to align 16 NYCRR Parts 10 and 255 with federal regulations promulgated by the Pipeline and Hazardous Materials Safety Administration, in Title 49, Code of Federal Regulations, Part 192.

The Commission, as a “state authority” operating a federally certified state pipeline safety program, is required, pursuant to 49 USC § 60105(b)(2), to adopt federal pipeline safety standards. The Commission has two years from the date of adoption of new federal regulations by the Pipeline and Hazardous Materials Administration (PHMSA) to adopt analogous revisions to the Commission’s regulations. This proposed rule would bring sections of Title 16 NYCRR Part 10 – Referenced Material (Part 10) and Part 255 – Transmission and Distribution of Gas (Part 255) into conformance with recent amendments to 49 CFR Part 192 related to pipeline safety adopted on October 5, 2022. The proposed changes to Part 10 and Part 255 would enhance the safety of gas pipeline systems in New York State.

The proposed modifications to 16 NYCRR § 10.2 would update the effective date of federal regulations incorporated by reference in other portions of Title 16. The proposed modifications to Part 255 would make certain technical and grammatical clarifications in various sections and make substantive amendments to 11 sections. First, the proposal would amend § 255.3 to add three new definitions. Second, the proposal would amend § 255.18 to update the procedures pipeline operators must follow for required notifications to the Department of Public Service or PHMSA. Third, the proposal would amend § 255.153 to revise the testing requirements for a prefabricated unit or pressure vessel designed as components. Fourth, the proposal would amend § 255.179 to revise the requirements for valves on pipelines to operate at 125 pounds per square inch gauge (psig) (862 kilopascals [kPa]) or more. Fifth, the proposal would amend § 255.281 to require that pipeline operators test joints on polyethylene pipes or components in accordance with an approved written procedure or other proven alternative method. Sixth, the proposal would amend § 255.511 to revise the test requirements for service lines as relating to an inside meter with an outside regulator. Seventh, the proposal would amend § 255.552 to revise the notification requirements when a pipeline operator intends to raise or lower the maximum allowable operating pressure of any transmission line. Eighth, the proposal would amend § 255.615 to revise emergency plan requirements for pipeline operators to respond to pipeline emergencies and the means of communication during such emergencies. Ninth, the proposal would amend § 255.745 to revise the requirements for valve maintenance or repair of transmission lines. Tenth, the proposal would amend § 255.827 to clarify the procedure pipeline operators must follow for investigating failures and incidents. Eleventh, the proposal would amend § 255.935 to revise the process for pipeline operators to employ preventive and mitigative measures to protect the high consequence areas for gas leaks.

In addition, the proposed rule would add four new sections to Part 255. First, the proposal would add § 255.610, setting forth the procedure for changing the class location for a transmission pipeline segment, and installing valves applicable to the new class location; Second, the proposal would add § 255.634, setting forth the procedure for installing or using valves for rupture mitigation on transmission line segments in high-consequence areas or Class 3 or Class 4 locations. Third, the proposal would add § 255.635, setting forth the indicia that constitute notification of potential rupture of a pipeline segment. Fourth, the proposal would add § 255.636, setting forth the procedure for responding to a rupture of a pipeline segment and for operating and monitoring rupture-mitigation valves or alternative equivalent technologies to minimize the volume of gas released from, and mitigate the consequences of, a pipeline rupture.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: John.Pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

Statutory Authority:

Public Service Law (PSL) §§ 5, 65 and 66 assign to the Public Service Commission (Commission) jurisdiction, supervision, powers, and duties over all gas corporations in the State and the conveying, transportation, and distribution of gas, which includes “all powers necessary or proper.” to ensure that gas service is “safe and adequate and in all respects just and