

41 N.J.R. 2476(a)

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RULE ADOPTIONS

**HUMAN SERVICES
DIVISION OF MENTAL HEALTH SERVICES**

41 N.J.R. 2476(a)

Readoption with Amendments: [N.J.A.C. 10:371](#)

Family Support Services

Proposed: December 15, 2008 at [40 N.J.R. 6898\(b\)](#).

Adopted: April 21, 2009 by Jennifer Velez, Commissioner, Department of Human Services.

Filed: May 11, 2009 as R.2009 d.186, **without change**.

Authority: [N.J.S.A. 30:4-177.43](#) et seq., specifically 30:4-177.52.

Effective Date: May 11, 2009, Readoption;

June 15, 2009, Amendments.

Expiration Date: May 11, 2014.

[page=2477] **Summary** of Public Comments and Agency Responses:

COMMENT: The Bergen County Counsel submitted written comments, expressing support for and agreement with the purpose and meaning of the proposed amendments. The commenter noted that "it is especially important that these rules be specific, thorough and easily interpreted, as they are now, since they govern the coordinated system of planning, and delivering public and private support services in order to enhance the quality of life for families and the significant others who provide care in the community for a family member with a serious mental illness." The Bergen County Counsel also supported the rule's social and economic impacts that "alleviate some of the care provider's financial burden by making services available to them at no cost" or administrative burden. Finally, the Bergen County Counsel noted the research indicating that IFSS significantly reduces the need for extensive psychiatric rehabilitation hospital stays.

RESPONSE: The Department appreciates the commenter's support.

[N.J.A.C. 10:371-1.1](#)

COMMENT: Disability Rights New Jersey (DRNJ) expressed support for "many of the proposed changes, including the shift to people-first language . . ."

However, DRNJ objected to the removal of the bracketed language in the phrase at [N.J.A.C. 10:371-1.1](#), stating (as it appeared in the proposal notice) that individuals with mental illness "should be afforded the opportunity to make decisions [for themselves, live in typical homes] and **choices toward a more satisfying lifestyle and to live, work, learn and participate fully in their** communities, and exercise their full rights as citizens." DRNJ contended that the proposed change resulted in a diminishment of the "goal of community placement" for consumers. Refuting DHS' explanation that the proposed deletion removed vague language, DRNJ countered that "there is nothing 'vague' about the *Olmstead* guarantee to community placement." DRNJ perceived a "lack of commitment on the part of DHS to individual self-determination and community living" and urged the Department to rewrite this section so that these values "are restored."

RESPONSE: The Department respectfully disagrees with the commenter and wishes to emphasize its strong commitment to the *Olmstead* principles of self-determination and community placement. (See [*Olmstead v. L.C.*, 527 U.S. 581 \(1999\)](#).) Far from undermining these principles, the amendments are consistent with them and more descriptively and accurately convey the goals of wellness and recovery than the original language. No common sense interpretation of the amended provisions could reasonably result in the conclusion that the Department was stepping away from its original requirement that IFSS programs should provide families with the supports needed to ensure that consumers make their own decisions regarding their full participation in the community.

[N.J.A.C. 10:371-5.2\(a\)3](#)

COMMENT: DRNJ objected to proposed amendments deleting the phrase "goal setting" and replacing it with "service needs," so that the amended provision would direct Intensive Family Support Services (IFSS) providers to develop and maintain written policies that "require individual family assessment and service needs." DRNJ argued that "services should be designed to help individuals with mental illness reach their goals" and that "[R]emoving the 'goal setting' language again unnecessarily minimizes the value of individual self-determination."

RESPONSE: The Department believes that removal of the phrase "goal setting" is appropriate here because that phrase is more commonly used to describe a function or element of treatment plans or individualized recovery plans developed for consumers. IFSS is a program of support, education and advocacy for families of consumers; these activities are meant to address the "service needs" of families, as indicated by the service assessment. The services offered by IFSS providers to family members may take the form of educating families about their loved one's mental illness, or providing emotional support and respite for families to enable them to better support their loved ones. IFSS services are meant to directly assist the families of consumers and are not treatment modalities for the consumers. Therefore, it would be inappropriate and confusing to include in the IFSS regulation language related to consumer treatment plans or IRPs such as "goal setting."

N.J.A.C. 10:371-5.6(a)3

COMMENT: DRNJ objected to the "removal of language . . . that requires DHS IFSS staff to keep information about their clients confidential." DRNJ maintained that "IFSS staff will have ample opportunity to learn confidential information about their clients" and that "[A]lthough IFSS staff may not, as DHS suggests, learn specific information about an individual's mental illness, they would learn other confidential information about an individual's overall health, financial status, or personal details."

RESPONSE: The Department respectfully disagrees with the commenter. Deletion of the subject language would not sanction the disclosure of consumers' confidential information. The change more accurately reflects the state of confidentiality laws application to the IFSS services.

The Intensive Family Support Services regulation at [N.J.A.C. 10:371-5.6\(a\)3](#) does not implicate the Health Insurance Portability and Accountability Act (HIPAA) confidentiality rules or the [N.J.S.A. 30:4-24.3](#). IFSS services are rendered to the family members of a person with mental illness. The focus is on the family members, and their experiences, and not the health information of the person with mental illness. The IFSS staff person will not have knowledge of the protected health information of the person with mental illness from that person's medical records, and thus the confidentiality laws that apply to protected health information do not apply. To the extent that health information is disclosed, the disclosure is made by the family, not the IFSS staff. Neither HIPAA nor Title 30 of the New Jersey Statutes prohibits family members from discussing health information of another family member.

Nonetheless, many of the IFSS staff are licensed professionals, typically social workers, and subject to confidentiality requirements of their licensure, for example, [N.J.S.A. 45:15BB-13](#) (licensed social worker's duty of confidentiality), in addition to confidentiality and ethical requirements associated with their profession, for example, the National Association of Social Workers Code of Ethics, Section 1.07, Privacy and Confidentiality, comprehensively addresses a social workers duty of confidentiality (<http://www.socialworkers.org/pubs/code/code.asp>). IFSS professionals are required to observe the confidentiality restrictions in state and Federal laws regardless of whether they are specifically enumerated in this regulation.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in New Jersey Administrative Code at [N.J.A.C. 10:371](#).

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

10:371-1.1 Purpose; authority

(a)-(c) (No change.)

(d) Adults with a serious mental illness should be afforded the opportunity to make decisions and choices toward a more satisfying lifestyle and to live, work, learn and participate fully in their communities, and exercise their full rights as citizens. When families serve as the primary provider of care for a family member with a serious mental illness, the families should be provided with the supports they need to sustain that family member with dignity in a community setting, within available funding limits.

(e)-(h) (No change.)

10:371-1.2 Scope

The provisions of this chapter shall apply to all families who reside in the State of New Jersey and who are actively involved in caring for, or supporting, an adult family member with a serious mental illness.

[page=2478] **10:371-1.3** Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Family concerns survey" means a valid and reliable instrument that measures objective and subjective pressures that a family experiences in caring for their member with a serious mental illness.

...

"Intensive family support services (IFSS)" means a range of family-driven supportive activities designed to improve the overall functioning and quality of life of families with a relative with a serious mental illness.

...

"NAMI New Jersey" is the name of a New Jersey Statewide self-help and advocacy organization dedicated to improving the lives of people with serious mental illnesses and their families.

"NAMI New Jersey Family-to-Family Education Program" means an education program given by families of people with serious mental illness for families of people with serious mental illness.

...

"Psychoeducation group" means a multi-family group, which meets the standard delineated at [N.J.A.C. 10:371-5.6\(b\)](#), and which meets on a regularly scheduled, time-limited basis for the purpose of providing families with a greater knowledge of mental illness, treatment options and skills useful in managing the illness within the family and supporting the recovery process. The psychoeducation group may include the family member with a serious mental illness.

...

"Respite" means non-emergency services designed to allow an individual family planned time away from their member with a serious mental illness.

...

"Single family consultation" means staff activities related to providing information to and consultation with an individual family on an "as needed" basis in order to enhance the overall functioning of the family with a member who has a serious mental illness.

...

SUBCHAPTER 5. INTENSIVE FAMILY SUPPORT SERVICES STANDARDS

10:371-5.1 Scope and purpose

(a) (No change.)

(b) The purpose of intensive family support services is to improve the overall functioning and quality of life of families with a relative with a serious mental illness. Family members and professionals work collaboratively to provide each family with the knowledge, skills and supports, which they identify as useful to a family's overall functioning and sense of control. This purpose shall be achieved through reaching out to relatives and others closely involved in and concerned about their family member's daily functioning and offering them a choice of supportive activities, which are family-driven, accessible, and flexible in frequency, location and hours of delivery.

1. IFSS enhance family functioning by providing the family with a greater knowledge about mental illness, treatment options, the mental health system and skills useful in managing and reducing symptomatic behaviors of the family member with a serious mental illness. Families also learn patterns of communication and levels of environmental stimulation, which have been demonstrated to reduce the number of psychiatric crises and hospitalizations. Families are encouraged to attend to their own needs for time off and social activities and are provided the supports to make it possible. Education and support activities may include psychoeducation groups, single family consultations, respite, family support groups, systems advocacy, referral/service linkage, and medication education. Services shall be delivered in the family home, at the agency or at other sites in the community convenient to individual family members. Families choose from an array of services those that are most relevant to their circumstances, which may change over time.

(c) (No change.)

10:371-5.2 Written policies and procedures

(a) The PA shall develop and implement written policies and procedures to ensure that the services provided comply with the rules in this chapter. The PA shall have written and implemented policies and procedures, which:

1.-2. (No change.)

3. Require individual family assessment and service needs. Assessments shall include, but not be limited to, the administration of a family concerns survey approved by the Division, after submission and review of scientific testing documentation. Such assessments shall continue throughout the entire length of stay and shall be used to plan IFSS with family members;

4.-6. (No change.)

7. Assure that respite workers are oriented to individual families and their family member with a serious mental illness. Orientation shall include specific information about the family and a meeting with the family member with a serious mental illness prior to respite activities;

8.-10. (No change.)

10:371-5.3 Population priorities

(a) Services shall be offered to parents, spouses, siblings and children of adults with a serious mental illness. Others who may use such services include relatives who are closely involved in and concerned about the daily functioning of the family member with a serious mental illness, or significant others and non-relatives who are the primary caregivers for the family member with a serious mental illness.

1. For the purposes of the IFSS program priorities, serious mental illness shall be defined, using the Diagnostic and Statistical Manual of Mental Disorders (IV) of the American Psychiatric Association, as amended and supplemented, incorporated herein by reference. Serious mental illness is a primary Axis I psychiatric diagnosis or exhibiting symptoms of:

i.-vi. (No change.)

2. (No change.)

(b) Services shall be made available to family members living in the geographic area served by the PA regardless of the family's ability to pay for services or whether or not their ill family member is enrolled in agency services or resides in the PA's geographic area. Family members may receive services from a PA located outside the geographic area in which they are living if that PA agrees. However, PAs shall give priority to family members residing in their geographic area.

(c) (No change.)

10:371-5.4 Admission criteria

(a) A family shall be considered a participant with an open IFSS case file once an initial intake, assessment of the family's needs and description of services has occurred and the family agrees to further service.

1. IFSS staff shall perform the assessment in a face-to-face setting with the family, unless the family chooses otherwise. In the event that a family chooses not to meet for a face-to-face assessment but wishes to receive services, this fact shall be

documented in the record and the case shall be opened.

(b)-(c) (No change.)

(d) If a family does not use IFSS for a period of six months, the PA shall contact the family to assess the need for continued services.

1. If no services are needed at that time, the family's case file shall be closed and the family shall be encouraged to contact IFSS at any time if they want to again use any of the program's services.

2. At the PA's discretion, families with closed IFSS files will remain on the program's contact list and continue to receive announcements unless they indicate otherwise.

3. A family's case file may be reopened at any time in the future, so long as the family continues to qualify for service.

10:371-5.5 Criteria for termination of services

(a) Termination from IFSS shall take place when one of the following occurs:

1. The family indicates that they no longer want services; or

2. (No change.)

[page=2479] **10:371-5.6** Service planning and services to be provided

(a) IFSS PAs shall include single family consultations in the service package they offer to families.

1. (No change.)

2. Single family consultations shall include, but not be limited to, individualized strategies for coping, problem solving, support, education, direct assistance, referral and advocacy.

3. IFSS staff shall provide the type of information related to the goals of the IFSS program, as delineated in [N.J.A.C. 10:371-5.1\(b\)](#) to family members according to their individual needs.

4. (No change.)

(b) IFSS PAs shall include psychoeducational groups in the service package they offer to families.

1. Psychoeducation groups shall be conducted according to the principles of evidence-based, best and/or promising practices and shall at a minimum include the following:

i.-ii. (No change.)

iii. Review of positive and negative symptoms of mental illness, along with discussions of methods of symptom management;

iv.-vi. (No change.)

vii. Adjustment of family expectations concerning the social functioning of the family member with a serious mental illness and introduction of the idea of incremental progress and recovery, rather than cure;

viii.-xi. (No change.)

2.-4. (No change.)

(c) (No change.)

10:371-5.7 Service coordination

(a) (No change.)

(b) In order to identify the target population, IFSS staff shall develop collaborative relationships with the social work staff at State and county psychiatric hospitals, screening services, Acute Care Family Support programs, designated short-term care facilities, and local inpatient units and jails in order to reach out to families from their service area who are experiencing a crisis with their family member who has a serious mental illness.

1. (No change.)

2. If an Acute Care Family Support program does not exist in the county, IFSS staff shall educate psychiatric inpatient and screening services staff on the needs of families in crisis and establish referral protocols.

10:371-5.8 Assessment, service preferences and record documentation

(a) (No change.)

(b) The assessment process shall continue throughout the entire length of service and the documents related to the assessment process shall be revised whenever there is a significant change.

(c) (No change in text.)

(d) The records shall contain all relevant information and shall be maintained to preserve confidentiality. At a minimum, the records shall contain the following:

1. The original IFSS family intake information, which identifies, at a minimum:

i. (No change.)

ii. Referral date and source;

iii.-iv. (No change.)

2. IFSS assessments, which shall document in the record the following information as it occurs:

i. A family concerns survey approved by the Division, after submission of documentation. The records shall include all family concern surveys administered by IFSS staff at admission into the program at six months, one year from the six-month date and annually thereafter. Level of concern information shall also be collected regarding families with closed case files. If the level of concern survey is not completed despite reasonable and diligent staff attempts to do so, the record shall note these attempts;

ii.-iii. (No change.)

iv. Functioning, diagnosis and medications of family members with a serious mental illness, if known; and

v. Service preferences, including location of services;

3. (No change.)

4. Progress notes, as follows:

i.-iv. (No change.)

v. Progress notes shall reflect attempts to complete the family level of concern survey and the family preference form in compliance with the timeframes specified in (c)2i above if the documents referenced in this section are not completed, despite reasonable and diligent staff attempts;

Recodify existing v.-vii. as vi.-viii. (No change in text.)

5.-8. (No change.)

9. PA's summary report regarding family's termination from IFSS program.

i. The summary shall include:

(1) (No change.)

(2) Family's status at termination in relation to most recent family concerns survey;

(3) Family response to services including, when possible, a family's self-assessment of progress and further needs, and a final family concerns survey; and

(4) (No change.)

10:371-5.9 Staffing requirements

(a) The PA shall employ staff with demonstrated attitudinal qualities, skills and competencies in knowledge areas, such as, but not limited to:

1.-13. (No change.)

14. Ability to establish a referral network and to provide technical assistance to professionals within the mental health system and other community groups

regarding the value of seeing the person with a serious mental illness as part of a family unit deserving attention and support (for example, religious groups; health care providers); and

15. (No change.)

(b) Each PA shall employ qualified staff sufficient in number to serve the needs of its geographic region. Staff shall have skills, which will enable them to educate families and collaborate with them in the rehabilitation process, support them in coping with their relative's illness and enhance their effectiveness as caregivers. IFSS staff shall help families maintain an environment that is conducive to the recovery process and to enjoy a better quality of life during the course of the illness.

1. (No change.)

2. Each Family Support Specialist shall have an earned Master's degree in a mental health clinical discipline and possess a minimum of three years experience providing mental health services to people with severe and persistent mental illness and their families.

i. If the PA employs additional voluntary or paid family support staff as part of its IFSS program, then the Family Support Specialist shall have a supervisory role over this additional staff.

3. Additional family support staff and consultants employed by the PA in its IFSS Program shall, at a minimum, have a Bachelor's level degree in the behavioral health sciences and two years experience working in the mental health field or a registered nursing degree/diploma and two years experience working in the mental health field.

i. (No change.)

4.-6. (No change.)

(c) (No change.)

10:371-5.10 Training

(a) The PA shall develop and implement an individualized training plan for each IFSS staff member, including the Family Support Specialist.

(b)-(d) (No change.)

(e) The PA shall provide staff the training resources it needs to provide education to families including, but not limited to, videotapes, workbooks and informational brochures.

1. The PA shall provide sufficient resources to assure that information developed for families is linguistically accessible, easily understood and culturally responsive.

10:371-5.11 Quality assurance

(a) The PA shall comply with the quality assurance and licensure requirements as promulgated in N.J.A.C. 10:37-9 and 10:190, respectively.

[page=2480] (b) (No change.)

(c) The PA shall collect information on family satisfaction with services.

1. The PA shall attempt to collect information on satisfaction with services annually for all families who have received IFSS services in the past year, and at the closing of a family's case file. The PA shall document these attempts in the family record.

2.-3. (No change.)

(d) The PA shall collect information on each family's level of concern.

1. Level of concern information shall be obtained at intake, at six months, one year from that six-month date, and annually thereafter. Level of concern information shall also be collected when a family's case file is closed.

2.-3. (No change.)

(e)-(f) (No change.)

(g) The PA shall meet at least twice each year with an advisory group, consisting of members of local NAMI affiliates, families served by the program and other family support and self-help organizations, where available. The intent of these meetings shall be to dialogue and obtain feedback on how well activities of the PA are meeting the needs of families and how well the activities of the family support organizations are coordinated. Feedback shall be made a part of the quality assurance process.

1. (No change.)

(h) (No change.)