



April 02, 2020

The Honorable Tom Wolf
225 Capitol Building
Harrisburg, PA 17120

Dear Governor Wolf:

The Rehabilitation and Community Providers Association (RCPA) wants to extend our gratitude for your leadership during these unprecedented times. Your administration has been transparent and responsive to the numerous requests we have brought to their attention. As you already know, RCPA provider members offer mental health, drug and alcohol, intellectual and developmental disabilities, children's, brain injury, medical rehabilitation, and physical disabilities and aging services, through all settings and levels of care.

RCPA has conducted numerous webinars, conference calls and other outreach to our over 360 providers/members regarding the COVID-19 pandemic. One of the major issues our members are facing concerns the definition of what constitutes a health care provider under the Family First Coronavirus Response Act (FFCRA). Our association has received conflicting guidance on the definition of a health care provider.

Pursuant to the U.S. Department of Labor's (DOL) frequently asked questions and answers regarding FFCRA, the DOL states:

[A] health care provider is anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

This definition includes any individual employed by an entity that contracts with any of the above institutions, employers, or entities institutions to provide services or to maintain the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is a health care provider necessary for that state's or territory's or the District of Columbia's response to COVID-19.

To minimize the spread of the virus associated with COVID-19, the Department encourages employers to be judicious when using this definition to exempt health care providers from the provisions of the FFCRA."

RCPA has sought a legal interpretation from attorneys regarding the above guidance from DOL. The attorneys believe RCPA mental health, behavioral health, drug and alcohol and intellectual and physical disability providers are included in the broad language of the definition; however, RCPA and its members have been directed to consult with their own legal counsel or human resources team. With this ambiguity in the definition of what constitutes a health care provider, RCPA members are not able to make appropriate business and health related decisions for their employees and clients.

Our members need clarification; therefore, RCPA respectfully requests your assistance to resolve this issue. According to the DOL guidance, the FFCRA allows for any individual that is the highest official of a state to determine whether a health care provider is necessary for that state's response to the COVID-19 pandemic. Per this provision in the law, RCPA believes you have the authority and may deem our members, who offer mental health, behavioral health, drug and alcohol as well as intellectual and physical disability services, as essential health care providers.

By declaring providers, who offer mental health, behavioral health, drug and alcohol as well as intellectual and physical disability services as essential health care providers, it will remove any ambiguity and providers will be able to make informed business and health related decisions on behalf of their employees and clients.

RCPA looks forward to your decision and I appreciate your time and continued support of our issues. If you have any questions or concerns about this issue, please contact me on my cell phone at (717) 645-2919 or redley@paproviders.org.

Very truly,

Richard S. Edley, PhD (sent via email)

Richard S. Edley, PhD
President/CEO

Cc: DHS Secretary Teresa Miller
DDAP Secretary Jennifer Smith
Clarke Madden, DHS Executive Deputy Secretary
Deputy Secretary Kristen Ahrens
Deputy Secretary Kevin Hancock
Deputy Secretary Kristen Houser
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