



# MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE

October 8, 2004

EFFECTIVE DATE

Immediately

NUMBER

00-04-12

SUBJECT:

**Clarifying the "30-Hour Rule"**

BY:

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Deputy Secretary for Mental Retardation

## SCOPE:

County MH/MR Administrators  
Base Service Unit Directors  
Community Residential MR Facility Directors

## PURPOSE:

The purpose of this bulletin is to rescind MR Bulletin 00-03-09 issued on September 25, 2003 and to further clarify 55 PA. Code §6400.3(f)(7).

## BACKGROUND:

The "30-Hour Rule" which is found in 6400.3(f)(7) states that "residential homes for three or fewer people with mental retardation who are 18 years of age or older and who need a yearly average of 30 hours or less direct staff contact per week per home" do not have to be licensed.

This Regulation was implemented to provide safety and protection for people being served by the Office of Mental Retardation within the Commonwealth of Pennsylvania.

MR Bulletin 00-03-09 provided for a number of conditions where people owning, renting or leasing their own home might be exempt from licensing. Further consideration of MR Bulletin 00-03-09 has altered OMR's position and it is believed that this MR bulletin may lead some people with mental retardation to be vulnerable to health and safety concerns. For that reason, MR Bulletin 00-03-09 is now rescinded and is superseded by this bulletin.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

MR Regional Program Managers

**DISCUSSION:**

Although it's not possible to answer an infinite number of hypothetical situations, there are several clarifications that are currently known:

- If the person owns the home and is the only person living there, then the home does not have to be licensed even if the person needs more than 30 hours of supports per week (even if the agency is the representative payee).
- If the person owns the home and has one or more renters with mental retardation who require more than 30 hours of supports per week, the home has to be licensed.
- If the home or apartment is owned or rented or leased by the agency and one or more persons are living there who need more than 30 hours of supports weekly, then the home must be licensed.
- Any person who leases or rents under their own name, but who needs more than 30 hours of support, needs to be licensed.
- If the person owns the home and the agency is only the representative payee, then the home does not have to be licensed.

The County MH/MR Program, through its contract with the agency or person(s) providing services and supports, maintains a responsibility to ensure health and safety whether or not the home is licensed.

**OBSOLETE BULLETIN:**

00-03-09 - "Clarifying the 30-Hour Rule"