

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT ON DISABILITY SERVICES**



Effective Date: March 01, 2011	Number of Attachments: 6
Responsible Office: DDS Deputy Director, Developmental Disabilities Administration	
Supersedes Policy: N/A	
Title/Subject: Substitute Decision-Making for Non-Emergency Needs Policy	
Cross-References: <u>Substitute-Decision Making for Emergency Care and Urgent Care Medical Needs Policy</u> , <u>Individual Support Plan Policy</u>	

All underlined words/definitions can be found in the Definitions Appendix.

1. PURPOSE

The purpose of this policy is to establish the standards and guidelines by which the Department on Disability Services (DDS), Developmental Disabilities Administration (DDA), shall assist an individual with selecting or obtaining an appropriate substitute decision-maker for individuals receiving supports and services from DDA who have been assessed to lack the capacity to make or effectively communicate medical decisions for themselves.

2. APPLICABILITY

This policy applies to all DDA employees, subcontractors, providers/vendors, consultants, volunteers, and governmental agencies that provide services and supports on behalf of individuals with disabilities receiving services as part of the DDA Service Delivery System funded by DDA or the Department of Health Care Finance (DHCF).

3. AUTHORITY

The authority for this policy is established in the Department on Disability Services as set forth in D.C. Law 16-264, the “Department on Disability Services Establishment Act of 2006,” effective March 14, 2007 (D.C. Official Code § 7-761.01 *et seq.*); and D.C. Law 2-137, the “Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978,” effective March 3, 1979 (D.C. Official Code § 7-1301.01 *et seq.*). D.C. Law 17-249, “Health-Care Decisions for Persons with Developmental Disabilities Amendment Act of 2008,” 55 D.C. Reg. 9206 (August 29, 2008).

4. POLICY

It is the policy of DDS to ensure that all individuals receiving DDA supports and services who need assistance in decision-making have an appropriate substitute decision-maker who is identified or obtained in a timely manner.

5. RESPONSIBILITY

The responsibility for this policy is vested in the Director, Department on Disability Services. Implementation for this policy is the responsibility of the Deputy Director, Developmental Disabilities Administration.

6. STANDARDS

The following are the standards by which DDS will evaluate compliance with this policy:

- A. DDA shall establish operating procedures for identifying a substitute decision-maker and/or obtaining a guardian for all individuals receiving services from DDA with an identified need.
- B. DDA shall ensure that all DDA Service Coordination staff and providers are trained on these procedures and this policy.
- C. DDA will ensure that an individual's need for decision-making assistance is addressed during the initial Individual Support Plan (ISP) and may be identified anytime after the initial ISP. The individual's possible need for a substitute decision-maker will be monitored on an on-going basis by the interdisciplinary team and circle of support.
- D. DDA shall assist the individual with determining the least restrictive but most appropriate substitute decision-making option to meet the individual's needs, based on a professional determination that an individual lacks capacity or requires assistance to make decisions.
- E. DDA shall consider a request for a court-appointed limited or general guardian as the last resort, as it is the most restrictive of an individual's rights. The substitute decision-making options (from least restrictive to most restrictive) to be considered shall include: an advance healthcare directive, a durable power of attorney, , a substitute healthcare decision-maker under D.C. Law §21-2210, a court-appointed Developmental Disability advocate with medical decision making authority, a limited or general court-appointed guardian.



Laura L. Nuss, Director



Approval Date

Attachments:

1. Substitute Decision-Making for Non-Emergency Needs Procedure
2. Guardianship Routing and Approval Form
3. Medical Affidavit
4. Psychologist Affidavit
5. Service Coordination Affidavit
6. Substitute Consent for Health Care Decisions Form