

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT ON DISABILITY SERVICES



PROCEDURE	
Subject: Behavior Support Plan Safeguards & Oversight Procedure	Procedure No.: 2013-DDA-PR013
Responsible Program or Office: Developmental Disabilities Administration	Effective Date: September 3, 2013
	Number of Pages: 5
Supersedes Procedure Dated: August 1, 2011	
Cross References and Related Policies and Procedures: Behavior Support policy; Behavior Support Plan Requirements procedure; Human Rights policy; Human Rights Definitions; Human Rights Advisory Committee procedure; Restrictive Control Review Committee procedure; Health and Wellness Standards; Individual Support Plan policy; Direct Support Training policy and procedure; Imposition of Sanctions policy; Enhanced Monitoring procedure; Watch List procedure.	

1. PURPOSE

This purpose of this procedure is to establish the standards and guidelines to be used in providing behavior support to people with intellectual and developmental disabilities in the District of Columbia. Behavior support is an appropriate service for a person who displays a pattern or patterns of behavior which are likely to seriously limit his or her ability to engage in activities or relationships that are meaningful to the person; or which threaten the physical safety of the person or those around them. These procedures will govern how Department on Disability Services (“DDS”), Developmental Disabilities Administration (“DDA”) providers develop, implement, and monitor behavior support plans for the people they support.

2. APPLICABILITY

This procedure applies to all DDS employees, subcontractors, providers, vendors, consultants, volunteers, and governmental agencies that provide services and supports on behalf of people with intellectual and developmental disabilities who are receiving services as part of the DDA Service Delivery System funded by DDA or the Department of Health Care Finance (“DCHF”).

3. PROCEDURES

The following sections establish procedures and protocols for implementation of the DDS Behavior Support Policy.

A. Responsible Provider

1. When a person receives residential support, the residential provider is responsible for ensuring that the person, or his substitute decision-maker, if applicable, has provided informed consent for any restrictive controls, and for any Behavior Support Plan (“BSP”). The residential provider is responsible for ensuring review and approval by its HRC, before implementation of any new restrictive controls. (Psychotropic medications shall be implemented immediately when prescribed by a licensed physician pending review by the HRC.) The residential provider is also responsible for uploading the BSP and all required supporting documents to MCIS.
2. The day services provider is only responsible for ensuring informed consent, HRC review and approval, and uploading the BSP and all required documents to MCIS when the person does not receive residential supports. However, the day provider is responsible for participating in the residential provider’s HRC reviews of BSPs for each person that the day provider supports.
3. In the event that a person does not have either a residential or day services provider, the person’s BSP shall be reviewed by the DDS Human Rights Advisory Committee, in lieu of a provider HRC.
4. Regardless of setting, every provider is responsible for ensuring staff are trained and records are kept in accordance with DDS’s Direct Support Training policy and procedures.

B. Informed Consent

1. The responsible provider must ensure the person or his or her substitute decision-maker has given written informed consent for the use of all restrictive interventions and for the BSP itself, regardless of whether it contains restrictive controls. The provider must maintain documentation of informed consent in its’ records and upload this information into MCIS along with the BSP.
2. Psychotropic Review Panel
 - a. If a person has been legally certified to not have the capacity to consent for the use of psychotropic medications, and there is no substitute health care decision-maker available, the DDS Psychotropic Review Panel may authorize the use of psychotropic medications for up to nine consecutive months.
 - b. The person has the right to request that the DDS Human Rights Advisory

Committee (“HRAC”) review the decision of the panel. If the person requests a review by the HRAC, the decision shall not be implemented until after the HRAC responds to the requested review. HRAC must review the decision at its next meeting or no later than 30 days after the request, whichever is earlier, and issue a response promptly.

- c. The HRAC’s decision may be appealed to the DDS Deputy Director for DDA.
 - d. For people for whom the DDS Psychotropic Review Panel has provided consent for three or more consecutive months and for whom there is a reasonable likelihood that, during the next six months, the person would not achieve capacity and a decision-maker would not become available, DDS shall petition for appointment of the most limited form of guardianship that would meet the person’s needs.
3. In an emergency in which a person is experiencing a mental health crisis and in which the immediate provision of mental health treatment, including medication, is, in the written opinion of the attending physician, necessary to prevent serious injury to the person or others, a provider may administer medication without seeking informed consent, only to the extent necessary to terminate the emergency.

C. Required Oversight and Review of BSPs Containing Restrictive Controls or Involving the Use of Psychotropic Medications

1. BSP’s that contain restrictive controls or involve the use of psychotropic medications must be reviewed and approved by:
 - a. The person or, if the person does not have capacity to consent for him or herself, the person’s substitute healthcare decision-maker;
 - b. The person’s support team;
 - c. The provider's Human Rights Committee, in accordance with Section A, above;
 - d. The DDS Restrictive Control Review Committee (“RCRC”):

D. Implementation of Behavior Supports

1. Positive behavior supports do not require prior approval from the provider HRC or the DDS RCRC, whether or not they are integrated into a BSP that includes restrictive controls. (The restrictive controls portion does require prior approval, as described above).
2. Physician’s orders, including those for psychotropic medications and sedation, must be implemented as ordered and without delay to ensure people’s health and safety. The use of psychotropic medications and sedation requires informed consent prior to initiation.
3. Approved BSPs that include restrictive controls may continue to be implemented during the time in which a new BSP containing a revised or new restrictive control is pending approval.

4. DDS has provisions for emergency use of restrictive controls and for emergency approval of restrictive controls, set forth in DDS' Human Rights Policy and Restrictive Control Review Committee Procedures.

E. Required Data Monitoring

Collection of behavioral data is required to monitor the person's progress toward achieving his or her positive behavioral goals.

1. Provider staff are responsible for regularly and routinely recording the frequency of each target behavior in the residence and day setting, including noting that the behavior did not occur. Staff must record behaviors on a regular schedule, based upon need.
2. Provider staff are responsible for forwarding the behavioral data to the BSP developer on a regular basis, and no less than monthly. Regardless of data reporting schedules, staff must inform the BSP developer of significant changes in behavioral functioning – including an unusual high or low frequency of behaviors, behavioral crisis, medication side effects, if new challenging behaviors emerge that cannot be addressed by the BSP, or when staff believes that restrictive procedures may no longer be necessary or could be faded.
3. The BSP developer is responsible for a quarterly report that includes notes on the person's progress, review of the data, and clinical justification for continued use of all restrictive interventions. This data must be provided to the prescribing psychiatrist during medication reviews. (See the attached BSP Quarterly Review template. DDS recommends, but does not require the use of this template.)

E. Required Documentation

1. Providers responsible for implementation of the BSP must maintain in the record and upload to MCIS, where indicated, the following documentation:
 - a. Evidence that the plan was developed through a person-centered planning process that included the person and his or her support team.
 - b. Evidence that the person or his or her substitute healthcare decision-maker, if he or she has one, provided informed consent prior to initiation of the restrictive intervention. This documentation must be uploaded into MCIS along with the BSP.
 - c. The person's psychiatric assessment, if the person is prescribed psychotropic medication. This documentation must be uploaded into MCIS along with the BSP.

- d. Evidence that staff who work with a person, are trained by the BSP developer or his/her designee on the implementation of the BSP and data collection protocols, in accordance with the DDS Direct Support Training policy and procedure. This documentation must be uploaded into MCIS along with the BSP.
 - e. Evidence that the provider's HRC reviewed and approved the BSP's implementation. This documentation must be uploaded into MCIS along with the BSP.
 - f. Evidence of review and approval by DDS RCRC, when such review is required. The DDS Rights and Advocacy Specialist, or his or her designee, will provide this evidence.
2. The BSP and all required corresponding documentation must be uploaded into MCIS no later than three (3) business days from the time the provider staff has been trained on the BSP.
 3. Prior to review by the DDS RCRC, the provider must ensure that all documentation has been uploaded and/ or updated. The provider shall also upload at least three (3) months of current behavioral data.

G. Temporary Staffing Authorization

If individualized staffing is necessary on an emergency basis:

1. For people who reside in waiver services, the Service Coordinator will send a request and supporting documentation directly to the Deputy Director for DDA (or designee) who may approve or deny the request for up to ninety (90) days. If approved for funding, the Service Coordinator will initiate the Service Funding Authorization or Plan of Care authorization for waiver services.
2. If a person who lives in an ICF/IDD needs support from a temporary or emergency individualized staff, the Service Coordination will submit the funding request to DHCF for authorization.

H. Sanctions

DDS may impose sanctions on providers who do not comply with the DDS Behavior Support policy, DDS Human Rights policy, or this procedure, including those who demonstrate deficient performance, as indicated by BSPs that are rejected by the DDS RCRC.