

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



PROCEDURE	
Department on Disability Services	Subject: Waiting List for HCBS Waivers
Responsible Program or Office: Developmental Disabilities Administration	Procedure No.: 2022-DDA-PRO02
Effective Date: 10/20/2022	Number of Pages: 9
Supersedes: 2013-DDA-PRO17 Waiting List for the HCBS IDD Waiver (effective: August 15, 2013)	
Cross References, Related Policies and Procedures, and Related Documents: DDA Level of Need Assessment and Screening Tool Policy and Procedure; DDA Intake & Eligibility Determination Policy and Procedure; Service Coordination Monitoring and Contact Policy; Waiting List for HCBS Waivers Policy	

1. PURPOSE

The purpose of this procedure is to delineate Department on Disability Services (DDS) responsibilities and establish standards and guidelines for establishment and maintenance of a waiting list for people who apply for supports and services through the Home and Community-Based Services (HCBS) Waivers for Persons with Intellectual and Developmental Disabilities (IDD Waiver) and for Individual and Family Support (IFS Waiver). This procedure ensures that all eligible applicants are treated in a manner that is consistent, fair and equitable.

2. APPLICABILITY

This procedure applies to all people who are determined eligible to receive supports from the Developmental Disabilities Administration (DDA), their families, advocates and guardians. It also applies to all DDS intake, waiver, and service coordination staff.

3. DEFINITIONS

Clear evidence of abuse, neglect or exploitation: a determination has been made by DDS or Adult Protective Services that an allegation of abuse, neglect or exploitation has been substantiated.

Homelessness: is as defined in the Homeless Services Reform Act of 2017, effective February 28, 2018 (D.C. Law 22-65; D.C. Official Code § 4-751.01(18)).

4. PROCEDURES

A. Application for Supports and Service through the HCBS Programs.

1. A person seeking supports and services from DDA must be determined eligible based on criteria set forth in the *DDA Eligibility Determination Policy* and its associated *Procedure*. Once determined eligible to receive supports from DDA, a person may apply for enrollment in an HCBS waiver program.
2. The assigned Eligibility Determination Unit (EDU) Service Coordinator will assess the person's level of service need, with consideration of available natural and community supports. Based on the person's person-centered identified needs, the EDU Service Coordinator will recommend which HCBS waiver would be most appropriate and request a Waiver Attestation Letter from the DDS Medicaid Waiver Unit (Waiver Unit). Additionally, the EDU Service Coordinator will recommend an assigned "Priority Level" in the event of a waiting list in the appropriate waiver and provide supporting documentation for that recommendation. The criteria for each Priority Level are set forth below in *Section C. Priority Rankings and Determination*.
3. People in Continuing Services receiving only case management services prior to the effective date of this policy may also request to receive waiver services. Within five (5) business days of such a request, the person's assigned Service Coordinator will schedule a meeting with the person's interdisciplinary team to review the person's current status and determine which waiver, if any, is most appropriate for the person's current support needs. Within five (5) business days of this meeting, the Service Coordinator will recommend the most appropriate waiver and request a Waiver Attestation Letter from the Waiver Unit. Additionally, the EDU Service Coordinator will recommend an assigned "Priority Level" in the event of a waiting list in the appropriate waiver and provide supporting documentation for that recommendation.
4. Within three (3) business days of receipt of the EDU or Continuing Services Service Coordinator recommendation, the Waiver Unit will review the submitted documents. Upon approval of the recommendation, the Waiver Unit will issue an Attestation Letter to the person (and/or their authorized representative) and provide a copy to the assigned EDU Service Coordinator or Continuing Services Service Coordinator. The Attestation Letter will include:
 - i. Preliminary findings that the person's level of care needs meet HCBS waiver requirements.
 - ii. Recommendation regarding the most appropriate waiver to which the person will be referred.
 - iii. Preliminary determination of the person's Priority Level in the event of a waiting list, which may change upon completion of the initial Individual Service Plan (ISP).
 - iv. The current number of people on the waiting list in each Priority Level.

5. Upon issuance of the waiver attestation letter, the EDU Service Coordinator will transfer the person's case to the Continuing Services Unit, where the case will be assigned to a Continuing Services Service Coordinator. The Continuing Services Service Coordinator shall, in collaboration with the person and his or her support team, develop the person's ISP as well as refer and assist the person to identify, apply for and, when appropriate, obtain services from other District of Columbia or community-based agencies for which they might be eligible, including services through the Medicaid State Plan.
6. With the ISP completed, the Continuing Services Service Coordinator will submit to the Waiver Unit a waiver enrollment application package, which includes the final recommendation for the most appropriate waiver to meet the person's needs. In addition, the Continuing Services Service Coordinator will submit a final recommendation of the person's assigned Priority Level in the event of a waiting list in that waiver as well as documentation supporting the recommendation.
7. Upon review of the submitted recommendation and supporting documents, the Waiver Unit will make a final determination regarding the most appropriate waiver as well as the assigned Priority Level in the event of a waiting list. The Waiver Unit will provide written notice of its determination of Priority Level in the event of a waiting list as well as information regarding the person's right to appeal as described in *Section I: Notice and Right to Appeal* of this procedure.

B. Placement on an HCBS Waiver Waiting List

1. If there are no available slots in the waiver determined most appropriate, DDS will place the person on that waiver's waiting list. People placed on the waiting list will be grouped by Priority Level. As slots become available, people on the waiting list will be enrolled into the appropriate waiver through the process described in *Section E: Order of Enrollment From the Waiting List* of this procedure.
2. If the person is placed on a waiting list, the assigned Continuing Services Service Coordinator shall, in collaboration with the person and his or her support team, assist the person to identify natural supports, technology and when appropriate, apply for community and/or other eligibility-based services. The integrated supports received by the person shall be documented in their ISP plan of care. The Continuing Services Service Coordinator will also maintain regular contact and monitoring in accordance with the *Service Coordination Monitoring and Contact Policy* (2018-DDA-POL004 [effective October 11, 2018] or its successors).

C. Priority Levels and Determination

To determine a person's waiting list priority level, DDS will consider the below criteria. The priority level is initially assigned based on needs identified during eligibility determination. However, the person's assigned Continuing Services Service Coordinator may recommend a change in priority level based on circumstances or factors identified during the development of the initial ISP.

1. Priority Need

The following eligible people are considered to have a “priority need” for enrollment in an HCBS Waiver:

- a. The person has no family or other natural support system to meet his or her assessed need for twenty-four (24) hour residential services and supports; or,
- b. An identified *Evans* class member who chooses to receive supports through an HCBS Waiver; or,
- c. A ward of the District of Columbia who has aged out of services from the D.C. Child and Family Services Agency (“CFSA”), who has been in an out-of-home placement and for whom returning to a parental/natural home is not an option.

2. Emergency Need

A person is considered to have an “emergency need” for enrollment in an HCBS waiver if the health or safety of the person or others is in imminent danger and the situation cannot be resolved absent the provision of such services available from an HCBS waiver program. Danger is considered imminent if person is put at immediate or impending serious risk of harm. Criteria for determining an emergency need include:

- a. There is clear evidence of abuse, neglect or exploitation;
- b. The person’s primary caregiver is deceased, and the person lacks an alternative primary caregiver;
- c. The person is homeless as defined in the Homeless Services Reform Act of 2017, effective February 28, 2018 (D.C. Law 22-65; D.C. Official Code § 4-751.01(18)).

3. Urgent Need

A person is considered to have an “urgent need” for enrollment in an HCBS waiver if he or she is at significant risk of having his or her basic needs go unmet. Basic needs include the need for shelter, to eat, maintain one’s health and to be free from harm, injury or threats to one’s person or property. Significant risk means specific and identified probability that, absent the intervention of waiver services and supports, the person’s basic needs will go unmet.

4. Non-Urgent Need

A person is considered to have a “non-urgent need” for enrollment in an HCBS waiver if he or she:

- a. Meets eligibility criteria for supports through an HCBS waiver; and
- b. Does not meet any of the priority, emergency, or urgent needs criteria.

D. Residential Supports

If the person is seeking out of home residential services through enrollment in the HCBS IDD waiver program, the person and their caregiver must be willing to accept available residential opportunities, if necessary, that meet the person’s primary needs at the time of assessment.

E. Order of Enrollment in An Available HCBS Waiver Slot

1. Eligible people on the waiting list will be enrolled into an HCBS waiver and begin receiving services in the following priority order:
 - a. An eligible person determined to have a priority need for waiver services will be enrolled and receive them before all other eligible people; and
 - b. An eligible person determined to have an emergency need for waiver services will be enrolled and receive them after *all identified priority needs have been met* and before all other remaining eligible people; and
 - c. An eligible person determined to have an urgent need for waiver services will be enrolled and receive them after *all identified priority and emergency needs have been met* and before all other remaining eligible people; and
 - d. An eligible person determined to have a non-urgent need for waiver services will be enrolled and receive them only *after all identified priority, emergency and urgent needs have been met*; there is available enrollment space in the waiver; and sufficient appropriated resources are available.
2. For people with the same Priority Level, when there are openings available in the HCBS IDD or IFS waiver, the *Waiver Waiting List Committee* shall review all candidates and make a determination of the order of placement. This determination will be based upon identified support needs as determined by the level of need (LON) assessment as well as any collateral materials. Length of time on the waiting list shall be a factor considered but is not determinative.
3. The Waiver Waiting List Committee shall include the DDS Deputy Director for DDA; one representative from the Waiver Unit; one representative from the DDA Service Coordination and Planning Division; one self-advocate; and one community advocate.

F. Review of Waiting List Priority Level

1. A review of the person's assigned priority level may be initiated through any of the following occurrences:
 - a. Quarterly Monitoring: The Continuing Services Service Coordinator will review a person's ranking on the waiting list during quarterly monitoring.
 - b. Annual ISP Review: The Continuing Services Service Coordinator will review a person's ranking on the waiting list annually as part of the ISP review process.

Whenever there is a significant change in the support needs of the person, the Continuing Services Service Coordinator shall update the LON and schedule an interdisciplinary team meeting to review the person's priority level. If the team determines that a significant change has occurred, the Continuing Services Service Coordinator will request from the Waiver Unit a reassignment of the person's priority level.
 - c. Upon Request: A person may request, verbally or in writing, an immediate review of their assigned priority level based on a change in the person's circumstances. Within five (5) business days of receipt of this request, the assigned Continuing

Services Service Coordinator will coordinate a review of the request with the person's interdisciplinary team. Following this review, the Continuing Services Service Coordinator will request from the Waiver Unit a reassignment of the person's priority level.

2. Within three (3) business days of a request for reassignment, the Waiver Unit will review the documentation submitted by the Continuing Services Service Coordinator to determine whether the person's assigned priority level will be changed.
3. Within five (5) business days of a request for reassignment, the Waiver Unit will notify the person of its reassignment determination. The notification will be sent to the person, and their family, substitute decision-maker, advocate, legal representative, as applicable, and as well as the assigned Continuing Services Service Coordinator. Notification to the person shall be via one telephone call and in writing. Notification to the person's family, substitute decision-maker, advocate, and legal representative, as applicable, shall be in writing and include information regarding the person's right to appeal as described in *Section I: Notice and Right to Appeal* of this procedure.

G. Removal from an HCBS Waiver Waiting List

Removal of a person's name from the waiting list requires review and approval by the DDS Deputy Director for DDA or his or her designee.

A person's name may be removed from the waiting list for any of the following reasons:

1. The person or their substitute decision-maker requests removal.
2. The person is no longer eligible for services from DDA.
3. If, as part of the quarterly review of the person's priority status, the person's Continuing Services Service Coordinator is unable to reach the person or their family after three (3) weekly attempts using multiple methods of communication (*i.e.* phone, email, postal service). The Continuing Services Service Coordinator shall document all attempts to contact the person and/or their substitute decision maker or members of their support team.

Upon recommendation of the Continuing Services Service Coordinator and approval by the DDA Deputy Director, the Waiver Unit will process the waiting list removal. The Waiver Unit shall send written notice by certified mail to the person's last known address notifying the person/family of the effective date of their removal from the waiting list.

H. Impact of Waiting List on People Applying for DDA Services Who Receive Services Through DC Healthcare Alliance

People who are eligible for DDA services and supports who receive health services through the DC Healthcare Alliance receive all necessary services offered through the HCBS waivers via DDS local funds. At any time that a waiting list is put in place for either of the HCBS waivers, locally funded services for people in the Alliance will also have services delayed until adequate funds are available. These people will be placed on the waiting list and selected to begin receiving services in the same manner as people who are eligible for waiver services. They will be placed in a priority ranking category

based on their needs and will be considered to initiate services along with people on the waiver waiting list.

I. Notice and Right to Appeal

1. The Waiver Unit shall provide each person on the waiting list and their legal representative timely and adequate written notice of the DDS decision to place the person on the waiting list, determination of the person's priority level or the decision to remove the person from the waiting list (for reasons other than enrollment and initiation of HCBS waiver services).
 - a. Timely means that the written notice is sent by first-class U.S. Mail, postage prepaid, within five (5) business days of the decision to the last known address for the person and their legal representative as included in the completed application or entered in the DDA database for the person.
 - b. Adequate means the written notice includes:
 - i. A statement of the action taken by DDS;
 - ii. The reason for the action and, if the action is placement on the waiting list, the person's priority level on the waiting list and an estimate of how long the person can expect to wait for HCBS waiver services;
 - iii. That the person can contact their Service Coordinator at any time to report a change in their circumstances and request a review of their priority level;
 - iv. An explanation of the of the person's right to an informal agency review and/or fair hearing at the Office of Administrative Hearings (OAH);
 - v. The method by which the person may request an informal agency review or demand a fair hearing;
 - vi. That the informal agency review is not required and does not toll the time that a person has to file with OAH; and that the person may immediately file a fair hearing request with OAH;
 - vii. That the person may represent themselves, or use legal counsel, a relative, a friend or other person for assistance; and
 - viii. Referral information for area legal services organizations.
2. In addition to the written notice discussed above, the Waiver Unit shall send each person on the waiting list and their legal representative written notice of the DDS's decision to continue the person's placement on the waiting list beyond the first six months, and twice annually thereafter.
3. Request for agency review must be made within thirty (30) calendar days (plus five (5) days for mailing) from the date the notice was mailed, unless there is good cause for a late appeal, and must be in writing. If a person needs help with filing the request for reconsideration, including writing the appeal letter, they may ask their Continuing Services Service Coordinator or the DDS Rights and Advocacy Specialist for assistance.

4. The agency review contemplated by this provision is an informal process by which the person and their legal representative may seek reconsideration of a DDS decision by the DDS Deputy Director for DDA, or their designee, and requires a written request for reconsideration setting forth the factual and legal basis for the disagreement relating to the person's placement on the waiting list, priority level or removal from the waiting list.
5. The DDS Deputy Director will provide a final, written administrative decision to the person and their Support Team, if appropriate, within thirty (30) days of the Deputy Director's receipt of the person's request for review.
6. Each person placed on the waiting list or removed from the waiting list for reasons other than enrollment and initiation of HCBS waiver services shall also be entitled to a fair hearing at the Office of Administrative Hearings in accordance with 42 CFR § 431.205 *et seq.*, D.C. Official Code § 4-210.01 *et seq.*, and 29 DCMR §§ 1940.21 and 9014.21.

J. Annual Report

DDS shall publish an annual report on the waiting list during the prior fiscal year, which shall include:

- a demographic profile of people on the waiting list;
- aggregate information on the level of need and requested supports and services of people on the waiting list;
- information about the length of time people have been on the waiting list;
- projected annual costs to meet the aggregate needs of all people on the waiting list; and
- a discussion of methods to reduce the waiting list and maximum waiting period.