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**LIFE. YOUR WAY.**  
Department on  
Disability Services

# HCBS Advisory Committee Spring 2024

*April 8, 2024*

# AGENDA

- I. Introduction
- II. Upcoming Policy and Procedure Updates
- III. IMEU
- IV. Feedback on Participant-Directed Services
- V. Questions and Answers
- VI. Summary and Next Steps

# Upcoming Policy & Procedure



## Updates

- The revised Policy and Procedure on Participation in the Cost of Residential Services was released with an accompanying transmittal and fact sheet on January 16<sup>th</sup>.
- We are in the process of making final revisions to the Remote Supports policy and procedure and we will be sharing the revised drafts for public comment.

# Upcoming Policy & Procedure

## IMEU – Revised definition of sexual abuse



Sexual Abuse includes the following<sup>1</sup>:

- Proposing or engaging in sexual activity of any kind with a person supported by DDS to whom one is providing, coordinating, supervising, planning, or otherwise involved in the provision of direct services; or to a person supported by DDS who is initially encountered in the context of providing, coordinating, supervising, or planning, direct services; or when one has access to the person's DDS service records or other sensitive information;
  - Consensual conduct between a DDS service recipient and a pre-existing romantic partner will not constitute sexual abuse solely because the partner also provides paid services through IDD or IFS waiver.
- Engaging in unwanted sexual activity with a person supported by DDS; or
- Engaging in conduct of a sexual nature directed at a person supported by DDS that could reasonably be expected to cause humiliation or offense on the part of a person in the same situation which may include, but is not limited to:
  - Displaying, requesting or transmitting-images or videos of a sexual nature in any format;
  - Sending sexually suggestive communications in any format;
  - Sharing sexual or lewd anecdotes or jokes;
  - Making inappropriate sexual gestures, such as pelvic thrusts;
  - Unwelcome touching, including pinching, patting, rubbing, or purposely brushing up against a person supported, and
  - Staring in a sexually suggestive manner.

# Upcoming Policy & Procedure

## IMEU

Sexual Abuse includes the following<sup>1</sup>:

Proposing or engaging in sexual activity of any kind with a person supported by DDS whom one met within the context of a professional role. Examples may include but are not limited to:

- A person to whom one is providing, coordinating, supervising, planning or otherwise involved in the provision of direct services
- A person residing with or otherwise associated with a person to whom one is providing, coordinating, supervising, planning or otherwise involved in the provision of direct services
- A person for whom one has access to DDS service records or other sensitive information

<sup>1</sup> Recognizing that there is no exhaustive list of potential scenarios or exceptions in this category, DDS retains the right to review allegations and determine whether an investigation is warranted.

# Participant-Directed Services



## Summary of Public Feedback

**Recommendations to offer participant direction options as part of the IDD waiver came from DRDC and QT.**

Response: Comment is acknowledged but is outside the scope of this policy.

**A person who is not institutionalized or in DDS housing should maintain eligibility even if they find themselves unhoused or are placed in transitional housing not funded by DDS.**

Response: Agreed. Some shelters or transitional housing programs may have rules that limit the supports the person may be able to receive, but we will revisit the policy language, so they are not excluded by policy.

# Participant-Directed Services

## Summary of Public Feedback



**The Policy, and Procedure, should clearly discuss the process for disqualifying a participant based on noncompliance with “program rules.”**

Response: The regulations for *My Life, My Way* Chapter 111 includes specific process for disqualifying a participant and the enrollment packet also contains this information.

**Participants should have a reasonable opportunity to identify an authorized representative or appeal a DDS determination that one is needed, prior to termination from the program.**

Response: The Remediation Training and Termination process form in the enrollment packet spells this out.

# Participant-Directed Services

## Summary of Public Feedback



**The requirement that an uncompensated authorized representative be appointed creates an unnecessary barrier to accessing PDS.**

**The Policy should clarify that an Authorized Representative may be paid by an entity other than DDS.**

**Authorized representatives should not be barred from receiving compensation as guardians, from funds in trusts or ABLE accounts, or from other public or private sources.**

Response: If a person requires a legal guardian, then the legal guardian is required to be the authorized representative. If the person does not have a legal guardian and requires an authorized representative, then that person would be uncompensated for their role as the authorized representative.



# Participant- Directed Services

## Summary of Public Feedback



**Although the Policy clarifies that an Authorized Representative will be required only when a person cannot make decisions and manage the PDS budget even after provision of supports, this language is not present in the Procedure. People who merely require support should not lose the ability to personally direct their own services. In addition, it is critical that the Procedure also include language that these supports can include supported decision-making.**

Response: We will revisit to add language about supported decision-making to the procedure.

# Participant-Directed Services

## Summary of Public Feedback

**The procedure should be revised to clarify that DDS, after a showing that funds have been misspent, has the authority to mandate only that a participant name an authorized representative. DDS should not have the authority to determine who shall serve as an authorized representative.**

Response: We agree and will revisit to make sure this is clear in the procedure.

# Participant-Directed Services



## Summary of Public Feedback

**We recommend that subsection 3 should revise “with the participant and/or their Authorized Representative” to “with the participant and, if one exists, their Authorized Representative.” Barring extraordinary circumstances, the assumption should be that people with Authorized Representatives should still be part of this decision-making process.**

Response: A participant with an Authorized Representative is not required to participate. The participant decides their own level of involvement in the decision-making process.

**Termination from the My Life, My Way program should trigger a full ISP reassessment process and, in some cases, a transfer to the IDD Waiver.**

Response: A reassessment will occur anytime a person’s support needs change.

# Participant-Directed Services



## Summary of Public Feedback

**The *My Life, My Way* Program Coordinator should be responsible for providing an overview of the *My Life, My Way* program to everyone who is interested in learning more about the program, including without limitation to DC residents with intellectual and developmental disabilities, their family members, and other supporters.**

Response: The *My Life, My Way* Program is widely shared through public forums and at intake. Additionally, information about the program is published on our website at <https://dds.dc.gov/page/choice-flexibility-control> and <https://dds.dc.gov/page/medicaid-waiver-information>.

**I suggest you make a video about the new program that will be more clear and less wordy for the "average" family that cares for the special needs community.**

Response: There is a video training included on the DDS website at the first link above.

# Participant-Directed Services



## Summary of Public Feedback

**Outreach should include outreach to people not yet enrolled in a waiver.**

Response: It is discussed with all applicants during intake and during annual ISP meetings.

**DDS should additionally discuss self-direction with people potentially interested in transitioning to a natural home.**

Response: See above.

# Participant-Directed Services



## Summary of Public Feedback

**The phrase “functioning has deteriorated in such a way that participant is no longer able to manage their PDS budget” should be deleted. If the phrase is not deleted, standards and a process should be articulated for making this determination.**

Response: We will revisit and reword this language. The process for making this determination is addressed in the Remediation Training and Termination process form.

**In Section 5. or the Policy, subsection B: The phrase “support with activities of daily living” should replace the phrase “hands-on care.”**

Response: Disagree. Support with activities of daily living is not limited to hands-on care.

# Participant-Directed Services



## Summary of Public Feedback

**Section 7.A.(3) requires all participants to have an emergency back-up plan. The Policy should define what DDS requires in an emergency back-up plan.**

Response: This is covered in the procedure and in the enrollment packet.

# Participant-Directed Services



## Summary of Public Feedback

**The requirement for an emergency back-up plan should not require both a paid or unpaid back-up person and a natural support person.**

**DRDC opposes requiring participants to have a natural support person in addition to an emergency back-up.**

**Unavailability of natural supports should not be a barrier to self-direction. We recommend that the emergency back-up plans described in Subsection III(D) be revised to include two possible back-up supporters, who may be either natural or paid supports.**

Response: Natural supports and emergency back-ups are required for PDS. The outreach and enrollment section of the *My Life, My Way* program regulations requires the Service Coordinator to submit the natural supports/Emergency Back-up Designation form and all required documents to the Support Broker.



# Participant-Directed Services



## Summary of Public Feedback

**Section III.H.(1) states the participant and/or their authorized representative decide how much to pay their PDWs. The D.C. regulations state that DCHF establishes a wage range and therefore, there are requirements as to the hourly wage. The Procedure should be amended to be consistent with the regulations.**

Response: Agreed. We will clarify this in the procedure.

**The definition of budget authority states that participants set the wage rate for their workers “within the range established by the Department of Health Care Finance.” More detail should be provided on how the wage range is established by DHCF, what role DDS plays in establishing the wage rate, and how participants can provide input on the wage rate range to ensure that participants are able to hire workers acceptable to them.**

Response: Disagree. This is beyond the scope of this policy.

# Participant-Directed Services

## Summary of Public Feedback

**7. Standards. D. Training, Paragraph 2: This paragraph should include a date by which all current DDA service coordinators are required to successfully complete training on the *My Life, My Way* program and a time period in which newly hired service coordinators shall be required to complete the training.**

Response: Disagree. Service Coordinators have been trained and additional in-service training is available on a weekly basis.

**CPR and First Aid certification should be required for Participant-Directed Workers (PDWs) only when an individualized assessment supports its necessity.**

Response: Disagree. There is no way to assess this as a need. This is a safeguard required for all staff who support HCBS Waiver recipients.

# Participant-Directed Services

## Summary of Public Feedback



**B. Training: This section should explicitly state that the participant, in coordination with the authorized representative, if any, is responsible for all training of participant directed workers other than the CPR and First Aid training noted in subparagraph 1.c.**

Response: This is not accurate. Some of the required trainings are specific to DDS DSP/PDW requirements and are not the responsibility of the participant and/or authorized representative.

**Will there be mental health training along with the CPR training. Some of the clients have mental health diagnosis?**

Response: The person or authorized representative would be responsible for providing or arranging for this training.

# Participant-Directed Services

## Summary of Public Feedback



**Section III.A. lists tasks to be completed when an individual is enrolled in PDS. However, there are no timelines for these tasks included in the Procedure. There should be timelines included for Section III.A. (5), (6), (7), (8) and (9). Timelines will ensure the process moves expeditiously and people are timely enrolled in the *My Life, My Way* program.**

Response: Disagree. Imposing timelines may be expeditious but would be counter to the premise of self-direction.

# Questions and Answers





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## Summary and Next Steps

**Next HCBS Advisory Committee Meeting:  
Monday, March ? (tentative)**

