

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



<b>Title/Subject: Substitute Decision-Making for Emergency Care and Urgent Medical Care Needs Procedure</b>
Policy (cross-referenced to): Substitute Decision-Making for Emergency and Urgent Care Needs

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

**1. PURPOSE**

The purpose of this procedure is to establish the standards and guidelines by which the Department on Disability Services (“DDS), Developmental Disabilities Administration (DDA), will obtain substitute healthcare decision-makers for individuals receiving services from the Developmental Disabilities Administration (DDA) who have been assessed to lack the capacity to make or effectively communicate medical decisions for themselves, and who (1) have emergency care or urgent care medical needs, and (2) do not have an identified substitute healthcare decision-maker.

**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. PROCEDURES**

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

**A. Identification of the Need for a Substitute Decision-Maker**

1. When any DDS employee, provider or agent becomes aware that an individual receiving services from DDA has an emergency care or urgent care need, he/she will notify that individual’s DDA Service Coordinator (SC) within one (1) business day.
2. When the SC becomes aware that an individual has an emergency care or urgent care need for healthcare, the SC shall take the following action:
  - a. For an identified EMERGENCY CARE need:
    - i. Within one (1) business day of an identified need, the SC shall:
      1. Consult with Supervisory Service Coordinator and any other relevant team members (may include, but is not limited to, DDA Health and Wellness staff and the individual’s attending physician) to determine whether the need falls within the scope of this policy, and to obtain any technical assistance necessary in implementing these procedures.
      2. Notify the designated Assistant Attorney General by email and telephone of the identity of the individual, nature of emergency healthcare need, and as much relevant information as is available.

3. Hand-deliver to the designated Assistant Attorney General the completed Guardianship Routing and Approval Form, the most current Individual Support Plan (ISP) (including the psychological assessment), and the original signed and notarized SC affidavit.
  - ii. Within two (2) business days of an identified need:
    1. The SC, in cooperation with the provider, shall obtain the original signed and notarized psychological affidavit, the original signed and notarized medical affidavit, and the original signed and notarized emergency medical affidavit;
    2. SC shall hand-deliver to the designated Assistant Attorney General the above-listed documents.
    3. Upon receipt of the above-listed documents, the designated Assistant Attorney General will review for legal sufficiency and discuss the status of the petition with the SC and members of the IDT.
    4. SC will keep the designated Assistant Attorney General apprised of changes or other developments regarding the nature of the emergency care or urgent care need, and continue to provide relevant information as available.
  - iii. Within three (3) business days of an identified need, the designated Assistant Attorney General shall file the petition for appointment of a temporary emergency guardian with the Probate Court.
  - iv. The designated Assistant Attorney General shall keep the SC apprised of the filing and any hearings with the Probate Court. To the extent necessary, the SC and knowledgeable provider representatives shall make themselves available for consultation and attendance at the court hearings.
  - v. Upon appointment of a temporary emergency guardian, the designated Assistant Attorney General shall update MR/DDA Consumer Information System (MCIS) and the guardianship tracking database.
- b. For an identified URGENT CARE need:
- i. Within five (5) business days of an identified urgent care need, the SC shall:
    1. Consult with Supervisory Service Coordinator and any other relevant team members (may include, but is not limited to, DDA Health and Wellness staff and the individual's attending physician) to determine whether the need falls within the scope of this policy, and to obtain any technical assistance necessary in implementing these procedures.
    2. Notify the designated Assistant Attorney General by email and telephone of the identity of the individual, nature of the urgent healthcare need, and as much relevant information as is available.
    3. Hand-deliver to the designated Assistant Attorney General the completed Guardianship Routing and Approval Form, the most current ISP (including the psychological assessment), and the original signed and notarized SC affidavit.
  - ii. Within seven (7) business days of an identified urgent care need:

1. The SC, in cooperation with the provider, shall obtain the original signed and notarized psychological affidavit, and the original signed and notarized medical affidavit.
  2. SC shall hand-deliver to the designated Assistant Attorney General the above-listed documents.
  3. Upon receipt of the above-listed documents, the designated Assistant Attorney General will review for legal sufficiency and discuss the status of the petition with the SC.
  4. SC shall keep the designated Assistant Attorney General apprised of changes or other developments regarding the nature of the emergency care or urgent care need, and continue to provide relevant information as available.
- iii. Within ten (10) business days of an identified urgent care need, the designated Assistant Attorney General shall file the petition for appointment of a permanent limited guardian with the Probate Court.
  - iv. The designated Assistant Attorney General shall keep the SC apprised of the filing and any hearings with the Probate Court. To the extent necessary, the SC and knowledgeable provider representatives shall make themselves available for consultation and attendance at the court hearings.
  - v. Upon appointment of a permanent limited guardian, the designated Assistant Attorney General shall update MCIS and the guardianship tracking database.
- c. In instances where the petition for permanent limited guardianship is already pending, and the medical need becomes an emergency care or urgent care situation, the designated Assistant Attorney General shall petition the court to expedite the hearing on an emergency basis. If requested by the designated Assistant Attorney General, the SC shall obtain and deliver to the designated Assistant Attorney General an original signed and notarized emergency medical affidavit prior to the date of the expedited hearing.
  - d. If this is a dire emergency that cannot wait for an emergency guardian to be appointed by the Probate Court, the treating physician (who also may be the primary care physician) shall be reminded by the SC or the provider of the ability to employ the two-professional rule from D.C. Official Code § 21-2212(c).

## **B. Training**

DDA shall maintain a training program for SCs, residential providers and healthcare and other medical services providers to educate them on the current legal requirements for substitute healthcare decision-making, and the process and procedures for obtaining the timely appointment of a permanent healthcare guardian or temporary emergency guardian and where necessary, the use of D.C. Official Code § 21-2212(c), which permits an attending physician to provide treatment in certain identified circumstances without consent when no authorized person is reasonably available.

### **Attachments:**

1. Substitute Decision-Making for Emergency Care and Urgent Care Medical Needs Policy