

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



<b>PROCEDURE</b>	
Subject: Imposition of Provider Sanctions	Procedure No.: 2014-DDS-PR001
Responsible Program or Office: Quality Management Division	Effective Date: March 10, 2014
	Number of Pages: 8
Supersedes: Enhanced Monitoring Procedure dated January 16, 2013, Watch List Procedure dated January 16, 2013	
Cross References, Related Policies and Procedures, and Related Documents: Imposition of Sanctions Policy, Imposition of Adaptive Equipment Sanctions Procedure, Provider Performance Review Policy and Procedures, Provider Certification Review Policy and Guide	

**1. PURPOSE**

The purpose of this procedure is establish guidelines and standards and delineate responsibilities for the Department on Disability Services (“DDS”), Developmental Disability Administration (“DDA”) to sanction a provider, when that provider does not meet DDS/DDA’s requirements around providing consistent high-quality person-centered supports and services that enable District residents with intellectual and developmental disabilities to lead safe, healthy, secure, satisfied, meaningful and productive lives.

**2. APPLICABILITY**

This procedure applies to all DDS/DDA employees, contractors, providers and vendors that provide services and supports to people with intellectual and developmental disabilities who receive services as part of the DDA Service Delivery System, funded by DDA and/or the Department of Health Care Finance (“DHCF”).

### **3. PROCEDURES**

#### **A. Identification of Deficient Performance Leading to Sanctions**

The DDS Quality Management Division (“QMD”) Director, or his or her designee, may impose sanctions when a provider does not meet expectations and requirements in accordance with established rules, regulations and DDS/DDA policies and procedures. This includes but is not limited to non-responsiveness to issues; concerns with incident management systems; concerns with nursing follow up; concerns with systems to safeguard people’s funds and personal possessions; concerns about fiscal and organizational accountability; failure to make sufficient progress in meeting a Continuous Improvement Plan (“CIP”); or anything that otherwise jeopardizes the health, safety, and well-being of the people they support. The following are examples of ways deficient performance may be identified. This is a non-exhaustive list.

1. A pattern of repeated Serious Reportable Incidents (“SRIs”), or a recurring series of reportable incidents that have not been adequately addressed or that poses an imminent risk to the health, safety and wellbeing of the people being supported.
2. A score of “Unsatisfactory” on the Provider Certification Review (“PCR”), or a provider who has scored below 80% on either the organizational or person-centered sections of the PCR.
3. Recommendation from the Immediate Response Committee or the Quality Improvement Committee.
4. Patterns or trends in issues identified through Service Planning and Coordination Division, Incident Management and Enforcement Unit, Health and Wellness Unit, QMD, Home and Community-Based Services Waiver Utilization reviews or by DHCF.
5. Recommendation from the Mortality Review Committee (“MRC”) Coordinator based on death investigation/data and MRC recommendations.
6. A provider who has performance issues related to adaptive equipment, that are deficient or that pose a threat to the health, safety and well-being of the people receiving services, in accordance with the DDS/DDA Imposition of Adaptive Equipment Sanctions Procedures.

7. DDS/DDA implementation of the District of Columbia's Protocol for Additional Enforcement Mechanisms for Providers Whose Performance Poses Potential Risk of Harm to *Evans* Class Members.
8. Recommendation of the *Evans* court monitor, substantiated by findings of the *Evans* court monitoring.
9. Identification by DDS/DDA or the Department of Health, Health Regulation and Licensing Administration ("DOH/HRLA") of an immediate jeopardy or imminent danger to one or more people who receive services and supports from a DDA provider.
10. Other enforcement action as evidenced by a report from DOH/HRLA including but not limited to: (a) a determination that a provider is out of compliance with one or more Conditions of Participation; (b) recommendation of termination of the Medicaid provider agreement; and/ or (c) issuance of a Provisional License for an existing service location.
11. The QMD Director, or his or her designee, shall regularly review provider performance data, including reports related to PCR, Provider Performance Review ("PPR"), Service Coordination and Planning Monitoring, Health and Wellness Monitoring, Enhanced Monitoring, and reports from the *Evans* Court Monitor, DOH/HRLA, and the Quality Trust for Individuals with Disabilities. Based on those reviews, the QMD Director, or his or her designee, may implement interventions and corrective action, including sanctions, when indicated.

## **B. Sanctions**

1. Sanctions are not mutually exclusive, mutually dependent, or progressive. Sanctions may apply to a provider, a service, or a specific provider service location. The following is a non-exhaustive list of potential sanctions.
  - a. Providers may be required to have a goal added to their PPR CIP.
  - b. DDS may mandate a corrective action plan to address the deficient performance.
  - c. DDS may require directed staff training.

- d. Providers may be required to implement a system for Competency-Based Training that includes an evaluation/measure of the effectiveness of staff training to ensure staff members demonstrate the skills necessary to consistently provide the individualized supports.
  - e. DDS may initiate a specialized program and/ or fiscal audit.
  - f. A provider may only be able to achieve provisional certification under PCR.
  - g. DDS may remove a person or people or terminate and/ or change the authorization for a provider to provide a service for a person to protect and/ or ensure a person's health, safety or well-being.
  - h. DDS may suspend transitions and/ or place the provider, service or service location on DDS/DDA's Do Not Refer List.
  - i. DDS may impose Enhanced Monitoring. Enhanced Monitoring is a short term, intense intervention that leads to issue resolution and increased capacity to promote the health, safety and welfare of people supported by DDA.
  - j. DDS may refer the provider to DOH/HRLA, DHCF, and/ or the Office of the Inspector General for investigation.
  - k. DDS may make referrals to DOH for matters related to professional licensing.
  - l. DDS may recommend that DHCF terminate the Medicaid provider agreement.
  - m. DDS may recommend that Office of Contracting and Procurement revoke the Human Care Agreement.
  - n. DDS may impose any other sanctions in accordance with DDS/DDA policies and procedures.
2. For providers with Human Care Agreements, in the event that DDS/DDA removes a person from service, suspends transitions in progress, terminates a service by a provider being delivered to a person, or places the provider on Enhanced

Monitoring or the Do Not Refer List, after 30 days, DDS may withhold a pro rata share of the vacancy rate and administrative rate for the vacancy that cannot be filled due to the provider's deficient performance.

### **C. Enhanced Monitoring Plan**

1. The QMD will coordinate the Enhanced Monitoring effort across DDA divisions. Monitoring will be initiated immediately in cases of significant concerns related to health and welfare. Enhanced Monitoring for reasons other than urgent health and welfare concerns will be initiated within five (5) business days.
2. Within five (5) business days of the determination to initiate the Enhanced Monitoring, the Enhanced Monitoring Team will develop a single integrated monitoring tool. This tool incorporates all outstanding issues from all DDS/DDA divisions. All requests, schedules and benchmarks will be developed, reviewed and assigned timelines for completion.
3. The Enhanced Monitoring Plan will include the frequency of visits; site(s), service(s), person(s); sample size; and duration (expected time frame for resolution). It will also define the criteria for the provider to meet in order to be removed from Enhanced Monitoring.
4. The Enhanced Monitoring Plan will be reviewed weekly by the Quality Improvement Specialist ("QIS") and Supervisory QIS and bi-weekly by the Team. It is the responsibility of the QIS to make revisions (adding additional indicators and/ or issues as discovered) or modifying the frequency, sampling, duration or other aspects of the Plan.

### **D. Notification**

1. With the exception of providers who are on the Do Not Refer List due to PCR scores below 80% on either the organizational or person-centered sections of the PCR), the QMD Director, or her or his designee, shall notify the provider when all sanctions begin and when they end.
2. The PCR Project Director shall notify providers of their placement on the Do Not Refer List at the time they are notified of the results of their PCR. The QMD Director, or her or his designee, shall notify the provider when they are removed from the Do Not Refer List. Improved scores in PCR will be one indicator of

improved performance, but is not the sole basis by which DDS will determine whether to remove a provider from the Do Not Refer list.

3. The Service Planning and Coordination Division shall notify the person, his or her family, if appropriate, and substitute decision maker when the provider who supports the person is recommended for termination. Additionally, at any support team meeting in which the person is considering transitioning to another provider, and as part of the ISP pre-planning process, the person's service coordination shall share information with the person and his or her support team about the provider's sanction status, including whether the provider is Enhanced Monitoring or the Do Not Refer List.

#### **E. Required Plan of Correction**

1. All providers who have been placed on Enhanced Monitoring and/ or the Do Not Refer List shall be required to have a Plan of Correction.
2. Once the QMD has placed a provider on Enhanced Monitoring and/ or the Do Not Refer List, or otherwise requires a Plan of Correction, the Supervisory QIS will notify the provider in writing of the specific performance deficiencies, expected resolution(s), benchmark criteria to achieve resolution, and timelines for expected completion.
3. Within five (5) business days of receiving the letter, unless given a different due date, the provider must submit a Plan of Correction to the Supervisory QIS, which details the actions to be taken, the person(s) responsible, the timeline, and the documentation that the plan of correction has been implemented and that it has successfully addressed the issue. The plan of correction must be timely and responsive to the concerns. The issue(s) must be addressed within 90 calendar days or more quickly depending on the seriousness of the issue(s).
4. The Supervisory QIS will notify the provider in writing within three (3) business days if the plan of correction is accepted. If not accepted, the provider has two (2) business days to correct and resubmit to the Supervisory QIS. Within two (2) business days, the Supervisory QIS will accept the new plan of correction or convene a meeting (in person or by phone) within five (5) business days to explain to the provider why the plan was not accepted and work with the provider to develop a directed plan of correction.

5. The provider shall implement the plan of correction and notify the Supervisory QIS when they determine they have successfully resolved the issues which placed them on sanctions. The QMD will verify resolution by site visit, record review and/or interview(s).
6. For each month that a provider is on Enhanced Monitoring and/ or the Do Not Refer List, the QMD shall evaluate the provider's success in resolving the identified performance deficiencies, the provider's capacity to identify and respond to issues, and the provider's systems to prevent reoccurrence and make a recommendation to the QMD Director on whether to end or continue sanctions, and whether to consider additional sanctions.
7. When the QMD Director determines that the provider has implemented the corrective action plan and successfully developed durable systems, the provider will be exited from Enhanced Monitoring, removed from the Do Not Refer List, and/ or have other sanctions lifted, and the QMD shall notify the DDS Director, DDS Deputy Director for DDA and the Executive/President of the provider.
8. All providers who have been placed on Enhanced Monitoring and/ or the Do Not Refer List shall have a goal added to their CIP to be monitored as part of ongoing PPR.

#### **F. QMD Reporting**

1. Each week, DDA will develop and distribute via the DDS website a Sanctions List that includes, at a minimum, the Do Not Refer List of providers subject to those sanctions. The QMD shall also share the Sanctions List each week with the DDS Director, the DDS Deputy Director for DDA, DHCF and DOH/HRLA.
2. Each month, the Supervisory QIS or his or her designee, will develop and distribute a monthly progress report for each provider on Enhanced Monitoring. Copies shall go to the QMD Director, DDS Deputy Director for DDA, and the Executive/President of the provider. At the conclusion of Enhanced Monitoring, the Supervisory QIS will develop and distribute a written summary of the Enhanced Monitoring, including quantitative and qualitative data from the Enhanced Monitoring Tools and recommendations for follow up to the QMD Director, DDS Deputy Director for DDA, and the Executive/President of the provider.

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3. The QMD shall annually publish a report on provider sanctions based on deficiencies in key areas.



## **G. Provider Appeals of Sanctions**

1. Providers may seek reconsideration of the following sanctions:
  1. When DDS/DDA removes a person or people to protect their health, safety or well-being.
  2. When DDS/DDA suspends transitions and/ or place the provider on DDA's Do Not Refer List.
  3. When DDS/DDA recommends that Office of Contracting and Procurement terminate the Human Care Agreement or service(s) to a person.
2. To seek reconsideration, the provider must submit a written request to the DDS Deputy Director for DDA within five (5) business days of notification. The written request must be signed by the organization's Executive Officer/ Manager and must provide justification for the reconsideration. The DDS Deputy Director for DDA shall provide a final written determination to all parties within fifteen (15) calendar days of receiving the request for reconsideration.