

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



PROCEDURE	
Subject: Waiting List for the HCBS IDD Waiver	Procedure No.: 2013-DDA-PR017
Responsible Program or Office: Developmental Disabilities Administration	Effective Date: August 15, 2013
	Number of Pages: 9
Cross References, Related Policies and Procedures, and Related Documents: DDA Level of Need Assessment and Screening Tool policy and procedure; Intake and Eligibility policy and procedure; Waiting List for the HCBS IDD Waiver 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 Waiver for Persons with Intellectual and Developmental Disabilities (“HCBS IDD Waiver”) and delineate a process that ensures that all eligible applicants are treated in a manner that is fair, equitable, consistent and timely.

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 DDA staff and contractors.

3. EMERGENCY ISSUANCE AND REQUEST FOR COMMENTS

DDS is issuing this procedure and its corresponding policy, effective immediately, on an emergency basis to ensure fair, equitable, consistent and timely provision of supports and services to eligible people through the HCBS IDD waiver. DDS developed this policy and procedure based on prior input from District of Columbia residents with intellectual and developmental disabilities and their families, service providers, and advocates. DDS seeks written feedback from stakeholders on the policy and procedure, and plans to hold at least one community forum for discussion. Revisions to this policy and procedure will be made accordingly. Rulemaking will also follow.

4. PROCEDURES

A. Application for Supports and Service through the HCBS IDD Waiver & Placement on the Waiting List.

1. A person who is eligible for support from DDA may apply for home and community-based services through the HCBS IDD waiver program.
 - a. Eligibility criteria for supports and services through DDA are set forth in DDA's Intake and Eligibility Determination policy and procedure, and are based upon on D.C. Official Code § 7-1301.01 *et seq.*
 - b. In order to be eligible for services and supports through the HCBS IDD waiver, the applicant must be:
 - i. A District of Columbia resident currently receiving services from DDS/DDA;
 - ii. A Medicaid recipient with income up to 300% of SSI; and
 - iii. A Medicaid recipient who meets an ICF/IDD level of care criteria.
2. All people who are supported by DDA have a comprehensive assessment of their support needs and risk screening completed upon admission to supports and at least annually thereafter, in accordance with the DDA Level of Need ("LON") Assessment and Screening Tool policy and procedure. The assessment will be completed based on: interviews with the person, the person's authorized representative, family members, friends, school teachers, and/ or other service providers; review of the medical, dental and psychological evaluations; and review of other available history as found in educational records, other service records, social work assessments, and related medical records as may be available.
3. If there is capacity within the HCBS IDD waiver such that the person is eligible for immediate enrollment, the person's service coordinator will, in collaboration with the person and his or her support team, develop the person's Individual Support Plan ("ISP") and Plan of Care in accordance with protocols in the Service Planning and Coordination Desk Guide.
4. If a waiting list has been put in effect for the HCBS IDD waiver:

- a. For newly eligible people the Intake and Eligibility Determination Unit (“IEDU”) service coordinator shall assign the person a proposed priority ranking, using the criteria specified below.
- b. For people who are already receiving non-waiver supports from DDA, the person’s service coordinator shall assign the proposed priority ranking.

The priority ranking shall be based on the LON, including the person’s assessed needs and caregiver profile, as well as any collateral information the person’s service coordinator or IEDU service coordinator has obtained.

5. The service coordinator shall submit the proposed ranking as well as all background information to the DDA Waiver Committee, comprised of DDA employees as designated by the DDS Deputy Director for DDA’s (“Deputy Director”) within 10 business days of the person’s completion of an application for the HCBS waiver program.
6. Within three (3) business days, the DDA Waiver Committee, will assign the person’s priority ranking and submit the completed packet to the person’s service coordinator.
 - a. If, as a result of the priority ranking, the person is eligible for immediate enrollment in the HCBS IDD Waiver, the person’s service coordinator will, in collaboration with the person and his or her support team, develop the person’s Individual Support Plan (“ISP”) and Plan of Care in accordance with protocols in the Service Planning and Coordination Desk Guide.
 - b. If the person is placed on a waiting list for enrollment in the HCBS IDD waiver:
 - i. Within five (5) business days, the person’s service coordinator will notify the person, and his or her family, substitute decision-maker, advocate, and legal representative, as applicable, of the results of the priority determination and that the individual has been placed on the waiting list for enrollment in the HCBS IDD waiver. The notice will include information regarding how to request an appeal of the decision as outlined below. 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.
 - ii. The person’s service coordination shall also, in collaboration with the person and his or her support team, develop the person’s Individual

Support Plan (“ISP”) and 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.

B. Priority Rankings and Determinations

Each eligible person will be placed on the waiting list or be enrolled and receive HCBS waiver services based on the following priority of needs criteria for DDA services:

1. Priority: The following eligible people would have priority to receive HCBS waiver services:
 - a. The person has no family or other natural support system to meet his or her assessed need for twenty-four (24) hour residential support;
 - b. Any identified *Evans* class member who chooses to receive supports through the HCBS IDD Waiver; and
 - c. Any person, who is 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 the HCBS IDD Waiver if the health, safety or welfare of the person or others is in imminent danger and the situation cannot be resolved absent the provision of such services available from the HCBS IDD waiver program. Criteria for determining an emergency need include, but are not limited to:
 - 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; or
 - c. The person is homeless or at imminent risk of becoming homeless as these terms are defined in the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01(18) and (23)).
 - i. "Homeless" means:
 - a. Lacking a fixed, regular residence that provides safe housing, and lacking the financial means to acquire such a residence immediately; or
 - b. Having a primary nighttime residence that is:

1. A supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations; or
 2. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
- ii. "Imminent risk of becoming homeless" means the likelihood that an individual's or family's circumstances will cause the individual or family to become homeless in the absence of prompt government intervention.
3. Urgent Need: A person is considered to have an "urgent need" for enrollment in the DDA 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 health and to be free from harm, injury or threats to one's person or property.
 4. Non-Urgent Need: An person is considered to have a "non-urgent need" for enrollment in the DDA HCBS waiver if he or she:
 - a. Meets eligibility criteria for supports through the HCBS IDD waiver; and
 - b. Does not meet any of the priority, emergency, or urgent needs criteria.

C. Immediate Services

Based on funding availability, DDA will provide immediate services to people on the waiting list who have been identified as having a priority or emergency need:

1. If the person is homeless or at imminent risk of becoming homeless as these terms are defined in the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01(18) and (23)); or
2. If there is reasonable belief that person is in imminent danger, or would be subject to abuse or neglect if the person does not receive immediate support or services.

D. Residential Supports

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

E. Review of Priority Status

1. The person's service coordinator will review a person's priority status quarterly to determine any change in the support needs of the person, the person's family, and other relevant circumstances affecting the support needs of the person.
2. Additionally, a person's priority status will be reviewed more frequently if the support intensity needs of the person increase or change due to any single or combination of factors cited in the Emergency or Urgent Needs criteria, discussed above. A review of a change in priority status will also be initiated within five (5) business days of the request by the person, or any member of his or her support team.
3. Any change in the priority ranking of a person must be approved by the DDA Waiver Committee.
4. Whenever a person's LON is updated, either annually as part of the person's Individual Support Plan review process, or because there is a significant change in the person's support needs, the service coordinator shall review the person's priority ranking and submit it for review and approval by the DDA Waiver Committee.
5. The Service Coordinator will notify the person, and his or her family, substitute decision-maker, advocate, and legal representative, as applicable, of the results of the priority review within 5 business days of the review determination. The notice will include information regarding how to request an appeal of the decision as outlined below. 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.

F. Order of Placement on the HCBS IDD Waiver

1. Eligible people on the waiting list for supports funded through the HCBS IDD Waiver will be removed from the waiting list and be enrolled and begin to receive HCBS waiver services based on the date of receipt of a complete application and in the following priority order:
 - a. An eligible person determined to have a priority need for DDA IDD HCBS 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 DDA IDD HCBS 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 DDA IDD HCBS 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 DDA HCBS 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 status, when there are openings available in the HCBS IDD waiver, the DDA Waiver Committee shall review all candidates and, based upon their needs as determined by the LON and any collateral materials and make a determination of order of placement. Length of time on the waiting list shall be a factor considered, but is not determinative.

G. Removal from the HCBS IDD Waiver Waiting List

A person's name may be removed from the waiting list for any of the following reasons. Removal requires review and approval by the Deputy Director's designee.

1. The person or his or her 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 service coordinator is unable to reach the person or his or her family after three (3) documented attempts each at least one week apart. However, the service coordinator must first send a written notice by certified mail to the last known address notifying the person/family of DDA's intent to remove the person's name from the waiting list. For purposes of this provision, DDA need not make contact in order to remove the person from the waiting list but need only send written notice to the last address provided by the person/family.

H. Notice and Right to Appeal

1. The service coordinator shall provide each person on the waiting list and their legal representative timely and adequate written notice of the DDA decision to place the person on the waiting list or 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 that the written notice includes:
 - i. A statement of the action taken by DDA;
 - ii. The reason for the action and, if the action is placement on the waiting list, the person's rank on the waiting list and estimate of how long the person can expect to wait for HCBS waiver services;
 - iii. That the person can contact his or her service coordinator at any time to report a change in his or her circumstances and request a review of his or her priority status;
 - iv. An explanation 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 himself or herself, 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 person's service coordinator shall send each person on the waiting list and their legal representative written notice of the DDA's decision to continue the person's placement on the waiting list beyond the first six months, and twice annually thereafter.
3. The agency review contemplated by this provision is an informal process by which the person and their legal representative may seek reconsideration of a DDA decision

- by the DDS Deputy Director for DDA, or his or her 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 status or removal from the waiting list.
4. Request for agency review must be made within 30 days (+5 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, he or she may ask his or her service coordinator or the DDS Rights and Advocacy Specialist for assistance.
 5. The DDS Deputy Director for DDA will provide a final, written administrative decision within 30 days of his or her receipt of the person's request for review to the person and his or her Support Team, if appropriate.
 6. Each person placed on the waiting list or removed from the waiting list for reasons other than enrollment and initiation of HCBS IDD 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 §§ 1909.1 to 1909.3.

I. 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; provide projected annual costs to meet the aggregate needs of all people on the waiting list; and discuss methods to reduce the waiting list and maximum waiting period.