



DEVELOPMENTAL DISABILITIES ADMINISTRATION
Olympia, Washington

TITLE: PLANNED ACTION NOTICE POLICY 5.07

Authority: [42 C.F.R. § 431.206](#)
[42 C.F.R. §483.128](#)
[RCW 71A.10.060 \(1\), \(2\)](#)
[WAC 388-825-100 through 105](#)

Section 504 of the Rehabilitation Act of 1973 Title II, Americans with Disabilities Act

Reference: [DDA Policy 5.02](#), *Necessary Supplemental Accommodation*
[DDA Policy 5.06](#), *Client Rights*
[DDA Policy 11.01](#), *Intake and Eligibility Determination*

PURPOSE

This policy establishes due process procedures regarding the requirement to inform a Developmental Disabilities Administration (DDA) client/legal representative and their Necessary Supplemental Accommodation (NSA) representative of Department decisions related to the client's DDA eligibility, services, programs, and provider of choice.

SCOPE

This policy applies to all Developmental Disabilities Administration (DDA) organizational units, including:

- DDA employees who make and/or implement Department decisions regarding a client's eligibility, services, programs, or provider of choice;
- DDA clients and applicants for DDA eligibility;
- Individuals referred to DDA for PASRR; and
- Non-DDA children when DDA performs an assessment and/or authorizes a service/program or provider of choice for the non-DDA child.

DEFINITIONS

Altered PAN means a Planned Action Notice that has been translated or has an attachment or has any other change that is outside of the version that is created in the DSHS Comprehensive Assessment Reporting Evaluation (CARE) system.

Appeal-by Date means the last date the client or the client's representative may request an appeal to the Department's decision that prevents the action from taking effect. The term "appeal-by date" as used in this policy should not be confused with the deadline for requesting an administrative hearing in order to have a hearing scheduled. That deadline is always ninety (90) days from the date of the receipt of the notice.

Department Action means DDA's proposed course based on a decision related to DDA eligibility, program type, service type, service amount, or client provider of choice. Department actions include (but are not limited to) approval, increase, reduction, termination, and denial. For individuals referred to DDA for PASRR, Department Action means DDA's determinations of whether the individual has an intellectual disability or related condition (ID/RC) per federal definition, whether the individual needs nursing facility level of care (NFLOC), and whether the person needs PASRR specialized services for ID/RC while in the nursing facility (NF).

Developmental Disabilities Administration (DDA) means the Department of Social and Health Services (DSHS) administration that was formerly the Division of Developmental Disabilities (DDD).

DPMS means DDA PASRR Management System, an electronic assessment and data management system.

Due Process means the administration of justice according to established rules that are based on the principle that a person may not be deprived of life, liberty, or property without following the proper legal procedures and safeguards.

Effective Date means the date the Department's action will take effect if the client or the client's representative does not request an appeal by the appeal-by date.

Initial ETR Request means a client's/representative's request for a program/service the client is not currently receiving or an additional amount of a service the client is receiving. It is considered to be an initial request when it is first requested and has no appeal rights but once the ETR program/service or amount has been approved or partially approved there are appeal rights to the reduction or termination.

Legal Representative means the parent(s) of a minor child, the court appointed guardian for an adult DDA client (or minor child if parental rights have been removed by a court), or the documented Durable Power of Attorney-Healthcare for an adult DDA client. A client's legal representative is authorized to make healthcare and other decisions for the client. See

[Guardianship and Power of Attorney](#) on the DDA Case Management Resources webpage. This link is available on the DSHS DDA intranet website only.

Necessary Supplemental Accommodation (NSA) Representative means the person who is designated to receive copies of DDA Planned Action Notices (PAN) and other Department correspondence in order to help a client understand the information in the document and to assist a client to exercise his/her client rights. The NSA representative cannot make decisions for the client unless he or she is also the legal representative. All DDA clients (and non-DDA minor children) must have a designated NSA representative. The NSA representative for a minor child DDA client (or non-DDA child) is the parent unless a court has removed parental rights and appointed a guardian for the child. The NSA for an adult DDA client is identified by the adult client when the adult client does not have a court appointed guardian. The adult client may also petition, in writing, to be their own NSA. See [WAC 388-825-102](#) and [DDA Policy 5.02](#), *Necessary Supplemental Accommodation*.

Non-DDA Child means a minor child client of a DSHS Department other than DDA. When DDA performs an assessment and/or authorizes a program/service for a non-DDA child the child/legal representative has the same due process rights as a DDA client.

PASRR means pre-admission screening and resident review, a screening and assessment process required prior to nursing facility admission for individuals believed to have ID/RC.

Planned Action Notice (PAN) means the Administration's written notification of DDA eligibility, service, program, and provider of choice decisions to a DDA client/legal representative and the client's NSA. This also applies to a non-DDA child and to a person referred to DDA for PASRR completion. The PAN includes the client's due process rights. See [Planned Action Notice and NSA FAQs](#) and [CARE Facts](#). These links are available on the DSHS DDA intranet website only.

Working Days means the days of the week the Department's state offices are open for business. Weekends and holidays are not considered "working days" in this context. Working days does not mean the days a particular Department employee works.

POLICY

Through a Planned Action Notice (PAN), DDA will promptly notify clients/individuals referred for PASRR/legal representatives and the client's NSA representative of Department actions and the clients' rights regarding those actions.

PROCEDURES

- A. A Planned Action Notice (PAN) must be created and mailed or given in advance of a proposed Department action, and must:

1. Be finalized within five (5) working days after moving the assessment to current status or making other Department decisions related to a client's eligibility, services, programs, or provider of choice; or, for individuals referred to DDA for PASRR, must be finalized prior to NF admission or within 7-9 days for current NF residents who are referred due to a significant change;
 2. Be mailed to the client/legal representative and NSA representative the day it is finalized. It may also be given in person to the client/legal representative and NSA representative;
 3. Be translated into the appropriate language(s) before mailing when the client/legal representative and/or NSA representative requires a translated version. If the PAN is translated, then both the translated copy and the English copy must be mailed together. The translated version (altered PAN) must also be filed in the Legal section of the client's case file. See [Planned Action Notice and NSA FAQs](#) and [CARE Facts](#). These links are available on the DSHS DDA intranet website only;
 4. Be filed in the Legal section of the client's case file whenever the PAN version in the CARE system has been altered in any way (e.g., language translation, attached WAC, attached policy, etc.). However, only the altered part (translation, attachment, etc.) must be filed because the original PAN is in the CARE system;
 5. Be filed in the Legal section of the client's case file if a PAN has been approved by the DDA Deputy Assistant Secretary or designee to be created outside of the CARE system; and
 6. For individuals referred to DDA for PASRR, the PAN is uploaded to DPMS.
- B. A PAN may not be sent to a client/legal representative or NSA while in "Pending" or while in "Draft." A PAN is a legal document and is valid only when it is finalized.
- C. A PAN must contain the following client specific elements:
1. The PAN date ("Date of Notice"). This date is auto-filled when the PAN is finalized in CARE; in DPMS, the date is entered by the PASRR Assessor and is the date of the PASRR determinations;
 2. The appropriate reason(s) for the Department action. The reason(s) must be sufficient to enable the client to determine whether there is a factual or legal basis to challenge the action through an administrative appeal. For most Department actions, reasons are selected from a drop-down menu. If the available reasons from the drop-down menu are not adequate or appropriate to explain the action, situation specific language may be drafted, but such language must be approved by the Chief, Office of Compliance and Monitoring, or their designee;

3. The appropriate WAC(s) for the Department action;
4. The appropriate appeal-by date. This date is always the last day of the month in which the PAN is sent, unless the PAN is sent less than ten (10) days before the end of the month. If there are fewer than ten (10) days between the date the PAN is sent and the last day of the month, the appeal-by date is the last day of the following month. Note that some Department actions are immediately effective and do not have a date by which an appeal will stop the action from going into effect (see [WAC 388-825-150](#)). For PANs related to those actions, no appeal-by date is given;
5. The appropriate effective date. The effective date must be the day after the appeal-by date. For PANs for which there is no appeal-by date, the effective date is the date the PAN is sent; and
6. The PAN also includes standard language (e.g. the standard PAN language regarding administrative hearing requests, repayment, etc.). The standard language on the PAN may not be edited or changed in any way.

D. If the Department is responding to an “Initial ETR” request then:

1. The client/legal representative and NSA is notified of the decision of the initial ETR request through either the DSHS CARE form, *Notice of Decision for an In-Home Personal Care Exception to Rule* or the [DSHS form 15-342, Notice of Exception to Rule Decision](#).
2. DSHS CARE form, *Notice of Decision for an In-Home Personal Care Exception to Rule* must be used for all Initial In-Home Personal Care ETR requests.
3. DSHS form 15-342 must be used for all other Initial ETR requests.

EXCEPTION

Any exception to this policy must have the written approval of the DDA Deputy Assistant Secretary.

SUPERSESSION

None

TITLE:

PLANNED ACTION NOTICES

POLICY 5.07

Approved: /s/ Donald Clintsman
Deputy Assistant Secretary
Developmental Disabilities Administration

Date: June 1, 2015