



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: NECESSARY SUPPLEMENTAL ACCOMMODATION POLICY 5.02

Authority: Section 504 of the Rehabilitation Act of 1973
 Title II, Americans with Disabilities Act
 RCW 71A.10.060(1), (2)
 WAC 388-472-0010; 0020(1); 0040
 WAC 388-825-100

PURPOSE

This policy establishes procedures for promoting equal access to eligibility and services from the Division of Developmental Disabilities (DDD) and to the appeal process for DDD eligibility, service, and provider decisions.

SCOPE

This policy applies to DDD employees who:

1. Provide information and/or services to applicants or clients of DDD; and/or
2. Determine decisions for clients who have appeal rights for eligibility termination, service denial, reduction, or termination, and denial of provider of choice.

POLICY

- A. DDD will promote policies, procedures, and practices that foster equal access to services for applicants and clients.
- B. Under DSHS rules, applicants, and clients are eligible for “Necessary Supplemental Accommodation” (NSA) services, designed to afford them equal access to department services; and
- C. DDD clients who are receiving or requesting DDD services are entitled to have a representative who is willing to receive copies of Planned Action Notices (PAN) and

other department correspondence in order to help clients understand the documents and exercise their rights. PANs include notice of eligibility decisions; reduction, denial, or termination of services; and denial or termination of provider of choice, along with a statement of client appeal rights.

PROCEDURES

A. For all currently eligible DDD clients:

1. There must be a representative documented in the record and confirmed prior to initiating any action that results in a decision with appeal rights (DDD eligibility, service eligibility or amount, termination or denial of provider of choice).
2. Case Resource Managers (CRMs) will complete the following steps prior to initiating any of the above actions and document these steps in the client's Service Episode Record (SER):
 - a. Review "significant others" in the Common Client Data Base (CCDB) and NSA information in CARE to identify the current NSA representative. Use WAC 388-825-100(2) to help determine the NSA representative.
 - i. If none is listed in the client record, ask the client for her/his choice of representative.
 - ii. The NSA representative cannot be a DDD employee or a contractor of DDD unless he/she meets the criteria of WAC 388-825-100(2).
 - iii. The Disability Rights Washington (DRW), formerly Washington Protection and Advocacy System (WPAS), will be the NSA for Allen and *Marr* class members currently in the state hospital when:
 - (a) There is no one else; and
 - (b) The issue is an eligibility review.
 - b. CRMs will contact the identified NSA representative to:
 - i. Confirm that the person agrees to accept the DDD notices and other correspondence sent to the client and understands his or her responsibility to assist the eligible person to understand the documents and exercise the eligible person's rights;

- ii. Confirm the mailing address and phone and ensure the CCDB and CARE record have this current information; and
 - iii. Document this contact in the CARE SER.
 - c. Include the NSA representative(s) as the primary “significant other” with mail contact (i.e., mailing address, phone number, and legal relationship) in the CCDB.
 - d. In the CARE assessment, mark “Yes” for the NSA question (on the last screen of the assessment) and:
 - i. Enter the name of the NSA representative in the “Comments” box; and
 - ii. Enter the NSA representative’s name, address, and phone number as a collateral contact in CARE demographics.
 - e. When the eligible person has no NSA representative for any of the following reasons, consult with the Assistant Attorneys General (AAG):
 - i. There is no one available to act as the NSA representative; or
 - ii. The client objects to the person that is identified; or
 - iii. The client objects to the appointment of anyone to act as his/her NSA representative.
 - f. Do not initiate an eligibility review, assessment/re-assessment of services, reduce or terminate an existing service, deny or terminate a provider until an NSA representative is identified, or the AAG agrees that the person is competent and no NSA representative is required. Enter the reason for delay in the SER.
 - i. Continue current services until the NSA issue is resolved.
 - ii. If immediate emergency services are authorized, no action can be taken to reduce or terminate those services until an NSA representative is identified.
- 2. For DDD clients, write an accommodation plan in the person’s support plan or SER.

- a. When the client has an NSA representative available to assist with accessing services, enter the representative’s name and contact information in the Individual Support Plan (ISP). The identification of an NSA representative is the accommodation plan.
 - b. For clients without an NSA representative and determined by the AAG as not requiring one, the NSA accommodations must be evaluated and addressed in the service plan or SER. Examples of accommodations include needing:
 - i. Someone to read and/or explain information;
 - ii. Written material in large print or another language; and
 - iii. Help understanding information and accessing services.
- B. Applicants and clients will receive the following accommodations:
1. Help with completing and understanding forms and processes;
 2. DDD notices, correspondence, and the PAN will be sent to the client and her/his representative in the person’s primary language and in a manner that can be understood; and
 3. Prior to mailing any PAN, call the NSA representative and applicant/client and explain the decision, the PAN, and the appeal rights.

C. Persons Who Are *Allen* and *Marr* Class Members

The following procedures are in addition to A and B above:

1. Prior to sending any *Allen* or *Marr* class member a PAN, DDD will contact the DRW Director of Legal Advocacy or his/her designee by telephone or email to inform him/her of the official department communication being sent to the class member.
 - a. DRW will be the NSA representative if no else is available for class members residing in WSH or ESH, if the issue is DDD eligibility.
 - b. DRW does not agree to be the NSA representative for any clients other than *Allen* and *Marr* class members who are not currently in WSH or ESH and whose eligibility is being reviewed.

2. When DDD sends a PAN to any *Allen* or *Marr* class member residing in a state hospital, the CRM will notify the DDD Mental Health CRM. The DDD Mental Health CRM will do all of the following:
 - a. Notify the appropriate Eastern State Hospital (ESH)/Western State Hospital (WSH) social worker in person or by telephone that the PAN is being mailed in care of an identified hospital staff representative.
 - b. Coordinate with the appropriate ESH/WSH social worker and hospital unit program manager to ensure that the class member’s hospital treatment team is aware that the PAN is being sent. Also identify the hospital staff who will receive the PAN on behalf of the class member.
 - c. Be available as necessary to assist in the support of the class member receiving this important information.
 - d. Work closely with the class member, his/her legal representative, DRW, and other appropriate department staff providing services to the class member.

GOVERNING DSHS RULES AND DEFINITIONS

WAC 388-472-0010 *What are necessary supplemental accommodation services (NSA)*

“Necessary supplemental accommodation (NSA) services are services provided to you if you have a mental, neurological, physical or sensory impairment or other problems that prevent you from getting program benefits in the same way that an unimpaired person would get them.

NSA services include, but are not limited to:

- (1) Arranging for or providing help to complete and submit forms to us;
- (2) Helping you give or get the information we need to decide or continue eligibility;
- (3) Helping you request continuing benefits;
- (4) If you miss an appointment or deadline, contacting you about the reason before we reduce or end your benefits;
- (5) Explaining to you the reduction in or ending of your benefits;
- (6) If we know you have a person who helps you with your applications, notifying them when we need information or when we are about to reduce or end your benefits;
- (7) Assisting you with requests for fair hearings;
- (8) Providing protective payments if needed; and
- (9) On request, reviewing our decision to terminate, suspend or reduce your benefits.”

WAC 388-472-0020(1) *We identify you as “NSA” if you: (c) Have a developmental disability.*

WAC 388-472-0040 *What are the department’s responsibilities in giving NSA services to me?*

“All of our staff are continually responsible to identify you as possible NSA eligible and assist you with NSA services.”

RCW 71A.10.060 (1) and **WAC 388-825-100** require that when DDD gives notice to the person with a developmental disability that the notice also is given to at least one other person. The order of these persons by priority is listed in this RCW and WAC.

RCW 71A.10.060 (2) requires that notice to a person with a developmental disability be “given in a way that the person is best able to understand. This can include reading or explaining the materials to the person.”

WAC 388-825-103 *When will I receive written notice of decisions made by DDD?*

You will receive written notice from DDD of the following decisions:

- (1) The denial or termination of eligibility;
- (2) The authorization, denial, reduction, or termination of services or the payment of SSP chapter 388-827 WAC that are authorized by DDD;
- (3) The admission or readmission to, or discharge from a residential habilitation center.

EXCEPTIONS

The Regional Administrators or his/her designee can approve exceptions to authorize an emergency service when there is no identified NSA representative. All other exceptions to this policy must have the prior written approval of the Division Director.

SUPERSESSION

DDD Policy 5.02
Issued March 1, 2007

DDD Policy 5.02
Issued June 23, 2006

DDD Policy 5.02
Issued March 16, 2006

DDD Policy 5.02
Issued April 5, 2005

DDD Policy 5.02
Issued November 30, 2004

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DDD Policy 5.02
Issued June 25, 2004

DDD Policy 5.02
Issued August 11, 2003

Approved: /s/ Linda Rolfe
 Director, Division of Developmental Disabilities

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