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 individuals who are initial applicants for eligibility with DDD (referred to as applicants) or clients of DDD; and/or

2. Make decisions regarding termination of client eligibility; approval, denial, reduction, or termination of client services; or denial of clients' 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.

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; notice of approval, reduction, denial, or termination of services; and notice of 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 NSA representative documented in the Collateral Contacts screen of the Comprehensive Assessment Reporting Evaluation (CARE) tool 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. Department staff 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 NSA information in CARE to identify the current NSA representative. Use WAC 388-825-100 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 (3)(b).

   b. Prior to each annual assessment department staff 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 verify the CARE record has this current information documented in Collateral Contacts; and

      iii. Document this contact in the CARE SER.

c. 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 who is identified and has not chosen someone else; or

iii. The client objects to the appointment of anyone to act as his/her NSA representative.

d. 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.

3. 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, entering the representative's name and contact information in the Collateral Contacts Screen in CARE 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. Help applicants and clients complete and understands forms and processes by doing the following:

1. Send DDD notices, correspondence, and PANs to the applicant, client and the client's NSA representative in the person's primary language and in a manner that can be understood; and

2. Prior to mailing any PAN to a client, call the NSA representative. If no NSA representative is required call the client. Explain the decision, the PAN, and the appeal rights. There must be at least two documented attempts to contact the NSA representative or client in the SERs.

3. When DDD sends a PAN to any person 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, by telephone, or email that the PAN is being mailed;

   b. Coordinate with the appropriate ESH/WSH social worker and hospital unit program manager to ensure that the person's treatment team is aware that the PAN is being sent;

   c. Be available as necessary to assist in the support of the person receiving this important information; and

   d. Work closely with the person, his/her legal representative, DRW, and other appropriate department staff as needed.

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 under chapter 388-827 WAC that are authorized by DDD;
(3) The admission or readmission to, or discharge from a residential habilitation center;
(4) Disenrollment from a DDD home and community based services waiver under chapter 388-845 WAC, including a disenrollment from a waiver and enrollment in a different waiver.

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 May 1, 2009

Approved: */s/ Linda Rolfe* Date: September 4, 2012
Director, Division of Developmental Disabilities