ALABAMA DEPARTMENT OF MENTAL HEALTH
DIVISION OF DEVELOPMENTAL DISABILITIES
ADMINISTRATIVE CODE

CHAPTER 580-5-30
INTELLECTUAL DISABILITIES SERVICES

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580-5-30-.01 Purpose.

(1) The purpose of the Alabama Department of Mental Health (ADMH) Division of Developmental Disabilities (DDD) is to ensure that a continuum of services and supports based on identified individual needs, choices, and desires are developed, implemented, enhanced, and coordinated for people with intellectual disabilities and their families in the State of Alabama, on a case-by-case basis. All appropriate resources will be utilized to the maximum extent possible by joining with other service entities, relatives, individuals, and interested groups.

(2) The DDD prioritizes the protection and promotion of the dignity and rights of all individuals with intellectual disabilities in the state of Alabama and strives to ensure that each is provided a continuum of services and supports which foster

maximum possible community integration, competitive and integrated employment opportunities, other meaningful activities of choice, and maintenance of the chosen family unit in a private home.
Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: **Amended:** Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

580-5-30-.02 Method Of Delivery.

The DDD provides a statewide service delivery system divided into geographic regions, all of which include a Regional Community Service office, Comprehensive Support Teams, and services contracted with public and private entities.

(1) Regional Community Services is a major component of the service delivery system and has as its objectives the following:

(a) Planning, supporting and coordinating generic and specialized services available through community agencies,

(b) Coordinating service and support needs with community service agencies,

(c) Assisting in the development of community-based programs and supports,

(d) Planning, in coordination with the applicable 310 entity and/or other provider agencies and monitoring of contracted services.

(e) Regional Community Services offices operate according to the philosophy that each individual should have the opportunity to live in an environment with only the supports necessary for the individual to be successful which are chosen by the individual and their family or guardian or advocate.

(2) The Comprehensive Support Services (CSS) Team provides a comprehensive array of specialized services for individuals with intellectual disabilities in the State of Alabama utilizing an interdisciplinary team model throughout the five DDD regions.

(a) Services provided through CSS are: specialized behavioral and psycho-social services, consultations, evaluations, and training designed to increase the capacity and expertise of entity personnel or family serving and supporting the individual, as well as to assist the individual. Psychiatric, Medical, and Dental consultation services are also available on a case-by-case basis utilizing the expertise of multiple team specialists.

Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: **Amended:** Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

580-5-30-.03 Assurances.

All intellectual disabilities services will be provided in accordance with the ADMH Standards, DDD Operational Guidelines and other federal funding source guidelines such as Home and Community Based Waiver Services (HCBS), and Community Standards for Services for Persons with Intellectual Disabilities. Appropriate certifications will be maintained in accordance with applicable Standards.

Federal and state guidelines, statutes, and rules will be observed to ensure maximum intra- and inter-agency cooperation and coordination of service.

Community Service Providers will operate in accordance with applicable federal, state, municipal and local laws, regulations, ordinances and codes, including, but not limited to, Federal Medicaid regulations, the State Medicaid Agency plan, the Alabama Medicaid Agency 's Administrative Code the Alabama Department of Mental Health 's Administrative Code and Audit Guidelines Manual and subsequent amendments, the State Ethics Law, and applicable state policies and procedures. Medicaid funding is passed through from the Alabama Medicaid Agency (AMA). This funding comes from the US Department of Health and Human Services Medical Assistance Program (Catalog of Federal Domestic Assistance Number 93.778) and is subject to Title XIX of the Social Security Act of 1965 and administrative regulations found in the Code of Federal Regulations, 42 CFR Part 430 to end.

-Only those services and units in the authorization record for each individual, actually delivered, will be forwarded to Medicaid. Of those claims forwarded, only those claims adjudicated to be paid by Medicaid as determined from the respective

Explanation of Payment (EOP) reports, will be paid to the provider. ADMH will have no obligation for service units denied or suspended by Medicaid.

If a chargeback occurs, the provider alone will be responsible for paying Medicaid. If the provider does not submit documentation for an informal review of the overpayment within thirty (30) calendar days, request a fair hearing, or submit payment within sixty (60) calendar days of the date of the letter informing them of the overpayment, ADMH will proceed with recoupments from future check writes

If ADMH suffers a recoupment from Medicaid due to a community service provider violation of Medicaid or Medicare regulations, community service provider has an affirmative duty to immediately (no longer than 30 days) reimburse ADMH for the total State and Federal amounts associated with the Medicaid or Medicare recoupment.
Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Amended: Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

580-5-30-.04 Record Management.

Community service providers will maintain records on all individuals receiving services and/or supports in accordance with ADMH Standards, applicable state and federal programs and laws such as Health Insurance Portability and Accountability Act of 1996 (HIPAA), and Centers for Medicare and Medicaid Services HCBS regulations.
Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Amended: Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

580-5-30-.05 Abuse/Neglect/Mistreatment/Exploitation.

The DDD preserves the safety, protection, and well-being of all individuals receiving services through its certified community

agencies, and will take appropriate action on any mistreatment, neglect, abuse or exploitation of those individuals.

(1) The DDD maintains a Community Incident Prevention and Management System (IPMS) that provides guidance for community providers for the implementation of an incident prevention and management system to protect individuals from potential harm, and those agencies are required to implement this plan as a part of their ADMH certification requirements.

Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: **Amended:** Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

580-5-30-.06 Service System.

The DDD in partnership with its provider network and other stakeholder entities, will provide individuals of Alabama who have Intellectual Disabilities a systematic method of entry into its service delivery system. DDD, 310 entities, and other providers, engage in a comprehensive list of activities providing advocacy and support. These activities include but are not limited to screening and intake, eligibility determinations and redeterminations, case referral, comprehensive needs assessments, person-centered planning, support coordination, and choice among covered services that are effective in meeting assessed needs. Individuals will also be provided assurance of freedom of choice of providers unless federal approval is in place to limit choice of provider, direct services and supports, referral to other sources of information, assistance and services, and the reassessment of needs of individuals with intellectual disabilities to inform ongoing person-centered planning and services provided.

Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: **Amended:** Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

580-5-30-.07 Reserved (Repealed 3/11/05).

(Repealed)

Author: Division of Developmental Disabilities (DMH)
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Repealed: Filed February 4, 2005; effective March 11, 2005.

580-5-30-.08 Community Service Provision.

The DDD's Regional Community Service offices, in conjunction with the appropriate 310 Entity and the individual's assigned support coordinator will assist qualified individuals, determined eligible for services by DDD, in locating, development, and/or administering services in accordance with the individual's specific assessed needs, goals, outcomes, choices, and preferences.

(1) Community services will be directed toward providing individuals and their families an array of supportive services and alternatives designed to avoid institutional care and promote independence and integration into the broader community environments. Individuals will be served in the least restrictive, most integrated setting appropriate to meet the individuals' needs as required by the American with Disabilities Act, Title II.

(2) For settings and services certified as HCBS waiver services, the DDD will promote and enforce all HCBS requirements, including the HCBS Settings Rule, 42 CFR §441.301(c)(4)(5), and all federal requirements for person-centered planning.

Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Amended: Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

580-5-30-.09 Intellectual Disability Community Programs (Repealed 1/14/21).

(REPEALED)
Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Amended: Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Repealed:** Published November 30, 2020; effective January 14, 2021.

580-5-30-.10 Contracted Intellectual Disabilities Services.

The ADMH contracts directly with public and private entities and with individual service providers. Contracts adhere to the provisions of Alabama Act 881 and with Act 310.

(1) Policies and Procedures of Contracted Service Providers, and Evidence of Effective Implementation in Practice. The DDD will ensure the entity has written policies and procedures that are being effectively implemented in such a way as to assure optimal independence, integration and productivity of individuals receiving services and supports.

(a) The entity's written policies and procedures will be approved, reviewed, and updated by the governing board, as appropriate but at least annually and available to all employees and individuals receiving services and supports. All employees will be trained on the policies and procedures including what constitutes effective and appropriate implementation of each policy and procedure.

(b) The DDD will ensure the entity's policies and, procedures, as well as evidence of implementation, actively promote and support strength based and person-centered planning as the foundation of assessment, planning, service authorization, service coordination, and service delivery as follows:

1. Strength based recognizes all individuals possess unique abilities and attributes that will benefit them in the achievement of goals and independence.

2. Person-centered planning focuses on the combination of strengths, needs, and community of supports for each individual in determining strategies to complement and assist in the attainment of goals for each individual to live the life of their choice.

3. Service delivery includes paid and unpaid services by service providers, community entities, groups, friends, family, and other natural support networks.

(2) Promotion and Protection of Individual Rights. The DDD will ensure the organization effectively and consistently implements policies and procedures that clearly defines its commitment to and addresses the promotion and protection of individual rights afforded all individuals by the constitution and laws of the Country and State of Alabama.

(3) Dignity and Respect. The DDD will ensure the organization's policies and procedures, and implementation of these, reflect and reinforce the use of courteous practices towards individuals.

(4) Natural Support Networks. The DDD will ensure the entity has policies and procedures, as well as effective practices implementing such policies and procedures, that define natural supports and how natural supports are identified to continuously support full inclusion in the community to include living independently and employment. Natural supports include families and friends as well as community resources such as local entities, clubs, places of worship, schools or other places where new and existing relationships can be built and facilitated outside of the organization.

(5) Protection from Abuse, Neglect, Mistreatment and Exploitation. The DDD will ensure all entities implement a Community IPMS to protect individuals served and improve the entity's responsiveness to incidents in order to ensure the prevention of harm and use of an effective approach to risk management that takes appropriate account of dignity of risk. Policies and procedures, and practices associated with their implementation, must be consistent and comply with requirements of the Community IPMS. These policies and procedures, and practices associated with their implementation, identify, define, prohibit, and prevent abuse, neglect, mistreatment and exploitation, including unauthorized use of restraints, coercion and exploitation. Definitions are comprehensive, specific, and consistent with Community IPMS definitions.

(6) Best Possible Health. The DDD will ensure entities develop and implement policies and procedures, and effective practices:

(a) That support individuals' health needs.

(b) That support individuals to maximize their capacity to attend to their own health and wellness including to self-administer medication.

(c) That assure medication procurement, destruction, administration, and storage are in full compliance with the Alabama Board of Nursing's Regulation 610-X-7-.06.

(7) Safe Environments. The DDD will ensure entities have policies and procedures, and effective practices implementing such policies and procedures, relating to safe environments, including ensuring safety in integrated community settings while respecting the individual’s dignity of risk where services are provided. Certified services provided in provider owned or controlled settings shall ensure certified settings

must be designed and maintained to be accessible, safe, and sanitary for individuals. Safety supports are available to the extent they are needed and based on required functional and risk assessments.

(8) Staff Resources and Supports. The DDD will ensure the entity develops policies and procedures on recruiting and hiring staff in accordance with all applicable local, State and Federal requirements and best policies for the field as recognized by ADMH.

(9) Positive Services and Supports. The DDD will ensure entities have policies and procedures, and effective practices implementing such policies and procedures, that address the positive implementation of services and supports for the individuals they support that are focused on the expectation that every individual is capable of learning and growing and every individual has strengths that can be built upon to facilitate the individual 's ability to achieve, (not merely pursue), their desired goals and outcomes.

(10) Continuity and Personal Security. The DDD will ensure entities develop policies and procedures, and effective practices implementing such policies and procedures, that address:

(a) The overall requirements of the governing body, business, and administrative supports of the individuals they provide services to.

(b) The fiscal practices in support of individuals managing, accessing and controlling their personal funds and other personal resources through the provision of education, training and support.

(c) Their business practices, which includes maintaining a record of information promoting continuity of services and security of individual information, in support of individuals served.

(11) Quality Improvement System. The DDD will ensure the entities has a system of internal compliance and quality monitoring that measures compliance with contractual and certification requirements, as defined by DDD, and that measures performance on quality measures defined by DDD. Measures will ensure compliance with the federal HCBS Rule, and for Support Coordination contracted providers, will also ensure compliance with federal regulations for person-centered planning.

(12) Support Coordination.

(a) The DDD will ensure the organization has a system of support coordination that complies with minimum requirements established by the DDD. All Support Coordination entities must maintain these requirements in order to operate within the state of Alabama as a Support Coordination provider. The requirements are delineated in the provider operational guidelines manual, contracts, and certification standards.

(b) The DDD will develop, implement, and monitor effective person-centered planning practices which will minimally include the following:

1. Use of community-based service delivery.

2. Assessment resources and procedures.

3. Person-centered plan aligning assessment results with paid and natural services and supports identified to support individuals.

4. Back-up and contingency planning.

5. Procedures Support Coordinators use to ensure the protection of rights for individuals, prevent abuse of individuals, and detect and report fraud, waste, and abuse.

6. Procedures for the development, implementation, and monitoring of Behavioral Support and Positive Support Plans.

7. Procedures for crisis planning, prevention and intervention.

(c) Person-centered planning practices will comply with all applicable Medicaid Waiver and HCBS rules.

Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: **Amended:** Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

580-5-30-.11 Review Of Contracted Services.

(1) The DDD and its Regional Community Services Offices will monitor and provide technical assistance to contracted service providers to assure that individuals receive appropriate services,

opportunities and support. This monitoring and technical assistance will be on-going but will include at least annual on-site reviews by qualified DDD staff.

(2) Certification site visits are conducted to assure that the provider is practicing sound management, providing quality service to individuals, complying with the ADMH contract, ADMH Standards and DDD Operational Guidelines, the ADMH Administrative Code for Services to individuals with intellectual disabilities, and all relevant federal regulations, as well as requirements for contracted providers specified in the DDD approved HCBS waivers.

(3) Emphasis will be placed on the quality of life, opportunities provided, and well-being of the individuals served when monitoring the delivery of services and supports according to approved service definitions and as described in the person-centered plan. Monitoring also includes evaluation of documentation and other record keeping requirements, including but not limited to progress notes, data sheets, personal files and operational policies and procedures, of all which substantiate an effective and systematic approach to the delivery of quality services and supports to individuals.
Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

Ed. Note: New Rule .11 and original Rule .11 was renumbered to .12 due to certification published November 30, 2020; effective January 14, 2021.

580-5-30-.12 Research (Repealed 5/15/22).

(REPEALED)
Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed January 17, 2011; effective December 21, 2011. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Repealed:** Published March 31, 2022; effective May 15, 2022.

Ed. Note: Original Rule .11 was renumbered to .12 due to certification published November 30, 2020; effective January 14, 2021.

580-5-30-.13 Program Enrollment/ADMH Medicaid Waiver Programs.

Entities/providers that participate in the Medicaid Waiver programs for financial compensation must be enrolled as a provider of services to individuals with intellectual disabilities, must meet any applicable certification requirements established by the ADMH, and must be under contract or subcontract with the ADMH. Certification does not guarantee a contract will be approved or offered by ADMH. Monitoring of waiver services by ADMH is required to meet federal funding requirements and to protect the Medicaid funding source. This monitoring is conducted by ADMH in accordance with ADMH regulations.

Entity/Provider Enrollment in the AMA HCBS Waiver Program for Persons with intellectual disabilities require the following:

(1) The entity/provider must meet any applicable certification requirements established by DMH.

(2) The entity/provider must contract with ADMH or subcontract with a ADMH contractor.

(3) The entity/provider must provide to ADMH the services it proposes to provide and numbers of individuals it proposes to serve if ADMH approves a contract with the entity/provider. The entity/provider must also participate and comply with data reporting requirements established by the ADMH. The ADMH fee-for-service reimbursement system requires each entity/provider to comply with the established reimbursement rates for each specific service/support delivered to individuals.

(4) Each contracting provider entity shall acquire a National Provider Indicator (NPI) as required by HIPAA. The Department will register the provider entity's NPI with the Medicaid Fiscal Agent, which will issue a performing provider number for each program in which the provider entity becomes enrolled. Each entity/provider will be assigned a license to access ADMH electronic billing and payment system. This access will allow the license holder to bill the ADMH, which will then approve, deny or suspend the claim prior to submitting it to EDS or paying it directly.

(5) Individuals enrolled in ADMH Waiver programs also receive support coordination services. The support coordinator serves as an advocate and a resource for the individual. The support coordinator is also responsible for the person-centered assessment to develop an individual' unique, person-centered plan and then monitor the effective implementation of the plan as well as participant satisfaction and quality of life. The

person-centered assessment also includes risk assessment evaluation.

(6) The Person-Centered Plan includes learning opportunities and individualized goals as informed by the person-centered plan assessment. The Support Coordinator continuously monitors the process towards the individual achieving success in attaining the goal, determines whether changes are needed to make the goal attainable or determines whether the goal is no longer appropriate or chosen by the individual.

(7) All individuals, served through ADMH HCBS Waiver Programs must be given freedom of choice among qualified contracted providers as to who is going to provide each waiver service.

(8) Each individual enrolled in an ADMH federally approved HCBS waiver must have a person-centered plan which specifies the amount, duration, and frequency of needed services appropriate to each individual within overall federally approved established limits.

Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed January 17, 2011; effective February 21, 2012. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

Ed. Note: Original Rule .12 was renumbered to .13 due to certification published November 30, 2020; effective January 14, 2021.

580-5-30-.14 Eligibility And Level Of Care Determinations For Medicaid Waiver Programs.

The AMA designates the ADMH as the entity authorized to determine individuals' eligibility for participation in the Medicaid HCBS Waivers. Within the ADMH, the oversight and monitoring of day-to-day operations of the Medicaid HCBS programs are conducted by the DDD through its Central and Regional Community Services offices. Information for eligibility determinations and redeterminations of individuals with intellectual disabilities for enrollment and continued participation in these programs is gathered by DDD Support Coordinators or designated 310 Board and submitted to the appropriate ADMH Regional Community Services office as described in the DDD Operational Guidelines. Appropriately qualified Regional Community Services office staff make the eligibility determinations and redeterminations based on information submitted.

(1) Definitions:

(a) ICAP (Inventory for Client and Agency Planning) - The standard functional assessment instrument used in the process of determining eligibility for the waiver programs. This commercial product will produce a three-page summary report known as the Compuscore. An eligibility assessment within ADMH's electronic information system summarizes key information from the ICAP Compuscore, from which the Regional Office can determine the individual's level of care.

(b) Level of Care Evaluation (LOC) - The form required by the Waiver Programs to document that the applicant would otherwise be eligible for and require the LOC provided in an Intermediate Care Facility (ICF).

(c) Designated Support Coordination Entity - The entity or Regional Office designated by ADMH in each county or group of counties responsible for coordinating waiver services and supports for individuals waiting for services.

(d) criticality Summary - The assessment tool created by the Department to evaluate the criticality of an individual's need for services.

(e) Intellectual Disability – A disability characterized by a) significant limitations in both intellectual functioning and b) adaptive behavior, which covers many everyday social and practical skills; c) and is a condition that originates before the age of 18.

(f) Qualifying Psychological Evaluation - A psychological evaluation administered and interpreted by a qualified individual.

(2) Eligibility for the Waiver - Medicaid HCBS Waivers are approved only as cost-effective alternatives to institutional care that would otherwise be reimbursed by the Medicaid Chapter 580-5-30 Mental Health Program. The waivers operated by ADMH are alternatives to a Medicaid reimbursed ICF. For eligibility requirements for HCBS waivers operated by ADMH, refer to the Long-Term Care Waiver section of the AMA's website.

(a) In Alabama, eligibility for the waiver is determined in three steps. In the first step, preliminary eligibility is determined so an individual's name can be added to a statewide waiting list. The second step occurs when the individual can be reached on the waiting list and it becomes his or her turn to be enrolled in the waiver. The third step occurs when the individual has been receiving services for a period no longer than one (1) year and his or her eligibility must be re-

determined. Re-determination is required annually for as long as the individual receives services under the waiver.

(3) The Waiting List - The ADMH maintains a statewide waiting list of individuals applying for services through the Medicaid waiver programs it administers under delegation of authority from the AMA. Applicants initially placed on the waiting list requires a determination of preliminary clinical eligibility as defined in the HCBS waiver. If an applicant is financially ineligible for Medicaid at the time of Waiver eligibility determination, the applicant may still be placed on the waiting list, so long as the intellectual disabilities and adaptive functioning criteria are met. However, the requirement of financial eligibility for Medicaid must be met in order to enter services from the waiting list.

Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed January 17, 2011; effective February 21, 2012. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

Ed. Note: Original Rule .13 was renumbered to .14 due to certification published November 30, 2020; effective January 14, 2021.

580-5-30-.15 Freedom Of Choice; ADMH Medicaid Waiver Programs.

The ADMH shall assure that each individual and their guardian or legally authorized representative are given a freedom of choice of individuals or entities from which to receive services.

Freedom of choice of provider is an essential right of individuals and their families as required by federal Medicaid for 1915(c)waivers not operated concurrently with any other federal Medicaid authority.

Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed January 17, 2011; effective February 21, 2012. **Amended:** Filed August 26, 2019; effective October 10, 2019. **Amended:** Published November 30, 2020; effective January 14, 2021. **Amended:** Published March 31, 2022; effective May 15, 2022.

Ed. Note: Original Rule .14 was renumbered to .15 due to certification published November 30, 2020; effective January 14, 2021.

580-5-30-.16 DMH-DHR Abuse Registry Procedures And Due Process.

(1) Section 38-9-8, Code of Ala. 1975, also known as "Shirley's Law," provides for the establishment and maintenance of a registry by Department of Human Resources (DHR), listing the names of certain individuals and caregivers whereby a finding of abuse, neglect, or exploitation has been indicated as defined in 38-9-8, Code of Ala. 1975, against certain recipients of the Department of Mental Health Developmental Disabilities Division's system of care.

(2) The registry shall provide for the inclusion of specific documented findings by the Alabama Department of Mental Health Developmental Disabilities Division (DMH) of neglect, abuse, or exploitation by any individual or caregiver, as well as a brief statement by any individual disputing the findings. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning an indicated finding shall also include disclosure of any statement in the registry relating to the finding or a clear and accurate summary of such statement. Individuals shall be notified in writing prior to submission of their names and related information to the registry and allowed the opportunity for a hearing in the event the individual disputes the findings.

(3) In addition to the definitions utilized by Department of Human Resources in Section 38-9-8, Code of Ala. 1975, Department of Mental Health shall utilize the following additional definitions in determining if a finding of abuse, neglect, or exploitation is indicated against a recipient of DMH Developmental Disabilities Division services:

(a) Subject Individual: Individual or caregiver whereby abuse, neglect, or exploitation has been indicated and is subjected to placement on DHR's abuse registry.

(b) Physical Abuse: The intentional infliction of physical pain, injury, or willful deprivation of necessary services to maintain physical and mental health by a caregiver or other person.

(c) Sexual Abuse: Any conduct that is a crime as defined in Sections 13A-6-60 to 13A-6-70, Code of Ala. 1975. Forms of sexual abuse include, but are not limited to, unwanted or non consensual sexual contact or activity using force, coercion or threats, rape, incest, sodomy, and indecent exposure.

(d) Verbal Abuse: The infliction of disparaging and angry outbursts such as name calling, blaming, threatening, or

making derogatory comments that demean or could reasonably be expected to cause shame, ridicule, humiliation, or emotional distress.

(e) Neglect: The intentional or unintentional failure of a provider to provide food, shelter, clothing, medical services, supervision, or basic needs for safety for an individual who is unable to care for himself or herself.

(f) Mistreatment: Any act or threat of intimidation, harassment, or similar deed to cause harm or create the fear of harm to a vulnerable person by the caregiver or another person.

(g) Exploitation: The expenditure, diminution, or use of the property, assets, or resources of a person subject to protection under the provision of Sections 38-9-1 through 11, Code of Ala. 1975, without the express voluntary consent of that person or legally authorized representative.

(4) Upon an indicated finding of abuse, neglect, or exploitation by Department of Mental Health, the Department shall serve notice by Certified U.S. Mail, return receipt requested, upon the subject individual's last known address, stating the facts and circumstances substantiating the indicated finding and the submission of the subject individual's name to the Department of Human Resources to place their name on the "Shirley's Law" abuse registry. The notice shall also inform the subject individual of the right to appeal the indicated finding and to request a hearing before the Department, following the parameters of §41-22-12, Code of Ala. 1975.

(5) The DMH-certified and/or contracted provider agency shall cooperate with DMH staff regarding further information on an incident of abuse, neglect, or exploitation, along with providing DMH with the subject individual's current contact information.

(6) If, upon receipt of the indicated finding notice, a subject individual requests a hearing before the Department, said request shall be delivered in writing within thirty (30) days' receipt of the notice to: ADMH Commissioner, 100 South Union Street, Suite 536 Legal, Montgomery, AL 36104.

(7) Upon final order from the Department, the subject individual may request judicial review pursuant to §41-22-20, Code of Ala. 1975.

(8) The Alabama Department of Mental Health hereby adopts by reference as its rule 41-22-12 through 21, Code of Ala. 1975, as amended, governing contested cases, appeals, and related proceedings regarding any formal hearing under this Section.
Author: Division of Developmental Disabilities
Statutory Authority: Code of Ala. 1975, §22-50-11.

History: New Rule: Published June 30, 2023; effective August 14, 2023.