
POLICY TRANSMITTAL NO. 06-11	DATE: MAY 9, 2006
DEVELOPMENTAL DISABILITIES SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:100, Table of Contents; OAC 340:100-1-2; 340:100-3, Table of Contents; 100-3-4; 100-3-4.1; 100-3-5.1; 100-3-27 through 100-3-27.1; 100-3-28 through 100-3-29; 340:100-5, Table of Contents; 100-5-22.1; 100-5-22.3; 100-5-26.3; 100-5-29; 100-5-52; 340:100 Appendix D; 340:100 Appendix J; and 340:100 Appendix K.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

340:100-1-2 is revised to add a definition of natural supports.

340:100-3-4 is revised update requirements for assisting service recipients with personal funds.

340:100-3-4.1 is revoked and the material is moved to 340:100-3-4.

340:100-3-5.1 is revised to remove references to Appendix J and Appendix K.

340:100-3-27 is revised to include requirements for case managers to visit service recipients in their homes and work sites.

340:100-3-27.1 is revised in subparagraph (2)(F) to correct a typographical error.

340:100-3-28 and 340:100-3-29 are revised to delete requirement for child abuse registry check, which is no longer possible due to confidentiality requirements.

340:100-5-22.1 revisions prohibit dangerous or deadly weapons and illegal substances in homes providing residential supports.

340:100-5-22.3 is revoked and language moved to OAC 317:40-1-2.

340:100-5-26.3 is a new Section that specifies services that can be provided by direct support staff in accordance with statute. This new rule essentially restates the statute passed in the last legislative statute.

340:100-5-29 is revised to remove references to Appendix D.

340:100-5-52 paragraph (B)(4) revisions change requirements that copies of the Individual Plan (IP) be kept at any site in which the service recipient receives services.

340:100 Appendix D is revoked and replaced with Oklahoma Department of Human Services (OKDHS) Form DDS-68.

340:100 Appendix J is revoked as it is no longer used.

340:100 Appendix K is revoked and replaced with OKDHS Form Vol-7.

Original signed on 4-12-06

James M. Nicholson, Director
Developmental Disabilities Services Division

Sharon Neuwald, Co-Interim Administrator
Office of Planning, Policy & Research

WF # 05-07 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS as the rulemaking agency; the “2” specifies the Chapter number; and the “1” specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

REMOVE

INSERT

340:100, Table of Contents

340:100, Table of Contents, 1 page only,
revised 5-11-06

340:100-1-2

340:100-1-2, pages 1-15, revised 5-11-06

340:100-3, Table of Contents

340:100-3, Table of Contents, pages 1-2,
revised 5-11-06

340:100-3-4

340:100-3-4. pages 1-5, revised 5-11-06

340:100-3-4.1

340:100-3-5.1

340:100-3-5.1, pages 1-5, revised 5-11-06

340:100-3-27

340:100-3-27, pages 1-8, revised 5-11-06

340:100-3-27.1

340:100-3-27.1, pages 1-6, revised 5-11-06

340:100-3-28

340:100-3-28, pages 1-2, revised 5-11-06

340:100-3-29

340:100-3-29, 1 page only, revised 5-11-06

340:100-5, Table of Contents

340:100-5, Table of Contents, pages 1-2,
revised 5-11-06

340:100-5-22.1

340:100-5-22.1, pages 1-12, revised 5-11-06

340:100-5-22.3

340:100-5-26.3

340:100-5-26.3, pages 1-4, issued 5-11-06

REMOVE

INSERT

340:100-5-29

340:100-5-29, pages 1-5, revised 5-11-06

340:100-5-52

340:100-5-52, pages 1-4, revised 5-11-06

340:100 Appendix D

340:100 Appendix J

340:100 Appendix K

CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

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6. Group Home Regulations.....	340:100-6-1
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9. Case Management Services [REVOKED]	340:100-9-1
11. Admission to Robert M. Greer Center	340:100-11-1
13. Family Support Programs.....	340:100-13-1
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Appendix B.	Residential Services Agreement [REVOKED]
Appendix C.	Case Management Process [REVOKED]
Appendix D.	Dyskinesia Identification System [REVOKED]
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Appendix F.	Developmental Disabilities Services Family Support Assistance Payment Program Annual Review and Report Appendix [REVOKED]
Appendix G.	Family Support Assistance Payment Program Affidavit of Understanding Regarding Family Assistance/Home and Community Based Waiver Services [REVOKED]
Appendix H.	Foster Home/Companion Program Application [REVOKED]
Appendix J.	Application for Volunteer Guardianship [REVOKED]
Appendix K.	Volunteer Reference Letter [REVOKED]
Appendix L.	Foster Home/Companion Assessment [REVOKED]
Appendix M.	Foster Home/Companion Assessment Medical Examination Report [REVOKED]
Appendix N.	Family Health History [REVOKED]
Appendix O.	Reference Letter [REVOKED]
Appendix P.	Corrective Action Plan [REVOKED]

340:100-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Active treatment" means aggressive and consistent implementation of a program of specialized and generic training, treatment, and health services that is directed toward the acquisition by the individual of skills necessary to function as independently as possible.

"Adaptive equipment services" means activities that assess the need for and acquisition of equipment or products which may be customized to increase, maintain, or improve the functional capabilities of individuals with developmental disabilities. These services include consumer and provider training in the use and maintenance of equipment, as well as equipment repair. Equipment provided through this service includes:

- (A) mobility and positioning devices such as wheelchairs, travel chairs, walkers, positioning systems, ramps, wheelchair lifts, bath seats, bath lifts, specialized beds, corner chairs, or feeder chairs;
- (B) orthotic and prosthetic devices such as braces and prescribed modified shoes;
- (C) augmentative or alternative communication aids such as language boards, or electronic communication aids; and
- (D) environmental controls such as devices to turn on and off appliances, use a telephone, or open doors.

"Advisory Committee on Services to Persons with Developmental Disabilities" means the committee appointed by the Director of the Oklahoma Department of Human Services (OKDHS) which has a legislative mandate to review and make recommendations on rules and programs of the Developmental Disabilities Services Division (DDSD) to the Director and the Oklahoma Commission for Human Services.

"Advocate" means a person who speaks for or on behalf of an individual, especially when individual rights or interests are at risk.

"Age appropriate" means that aspect of normalization that reinforces recognition of an individual as a person of his or her chronological age.

"Alternative appropriate setting" means a residential setting, other than a nursing facility, in which needed habilitation services are provided. In most cases, an alternative appropriate setting is accessed through waived services the individual is determined eligible to receive commensurate with the eligibility requirements of this Chapter.

"Architectural modification services" means activities that assess the need for and provide alterations to a residence of an service recipient, to ensure safety, security, and accessibility. Modifications include:

(A) ramps;

(B) lifts such as porch, chair, and hydraulic lifts;

(C) bathroom facilities such as roll-in showers, sink and bathtub modifications, toilet, floor urinal, and bidet adaptations, water faucet controls, plumbing modifications, and turnaround space;

(D) kitchen facilities such as sink modifications, sink cutouts, turnaround space, water faucet controls, plumbing modifications, work surface, and cabinetry adjustments; and

(E) specialized accessibility adaptations such as door-widening, electrical wiring modifications, grab bars and handrails, automatic door openers, doorbells, voice activated, light activated, and electronic devices.

"Assessment" means the process of identifying an individual's present developmental or functional level and health status, the individual's developmental strengths and needs, the environment, and other conditions that support or impede development.

"Audiological examination and treatment services" means activities performed by an audiologist licensed by the State Board of Examiners for Speech-Language Pathology and Audiology which may include treatment and counseling regarding the use and care of individual hearing aids.

"Case manager" means a professional who is responsible for assuring that services to an individual are planned and provided in a coordinated fashion. Additional responsibilities include independent advocacy, brokerage, and monitoring activities with, and on behalf of, service recipients.

"Challenging behavior" means a behavior which, by its frequency or degree of

intensity:

(A) places at risk an individual's physical safety, environment, relationships, or participation in the community; or

(B) creates a risk of involvement in civil or criminal processes.

"Client Contact Manager (CCM)" means a computer software system used by DDSD case managers to collect and monitor case management data for all service recipients.

"Community Integrated Employment (CIE)" means a service program which provides placement, job training, and short-term or long-term supports to assist service recipients in achieving and maintaining employment within the community.

"Companion services" means living arrangements in which a service recipient shares a home with a non-disabled person who may or may not be a paid provider of services to the service recipient.

"Confidential information" means information related to a service recipient generated by OKDHS or contract providers; and observations of and discussions concerning the condition of service recipients, their families, guardians, or friends.

"Consumer" means a person who is a direct recipient or beneficiary of service planning and delivery. "Consumer" is synonymous with "client," "service recipient," and "individual served."

"Contract provider or agency" means an agency or individual rendering services to persons with developmental disabilities under a contractual agreement with OKDHS.

"Convalescent care" means nursing facility care following a person's release from an acute care hospital that is part of a medically prescribed period of recovery. Convalescent care is not expected to exceed an established number of days.

"DDSD" means the Developmental Disabilities Services Division, an operating unit of OKDHS.

"Deaf" means hearing loss so severe that the individual cannot communicate through oral or aural means.

"Dementia" means a degenerative disease of the central nervous system as diagnosed by a physician in accordance with the International Classification of

Diseases, 9th Revision, Clinical Modification (ICD-9-CM).

"Demonstrated need" means critical elements required by service recipients to prepare for or continue to lead a full and productive life in the community, which can be authorized by the DDS case manager, in accordance with this Chapter. Needs are distinguished from wants which include things that would be nice to have. Funding for a person's wants comes from the person's own resources, natural supports, or community resources.

"Dental examination and prophylaxis" means activities of a licensed dentist that diagnose acute or chronic dental conditions, support oral hygiene through medically indicated cleansing and scale removal procedures, and prescribe training procedures promoting independence in oral hygiene for service recipients.

"Developmental disability" means a severe chronic disability of a person which:

- (A) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (B) is manifested before the person attains age 22;
- (C) is likely to continue indefinitely;
- (D) results in substantial functional limitations in three or more of the areas of major life activity which are:
 - (i) self-care;
 - (ii) receptive and expressive language;
 - (iii) learning;
 - (iv) mobility;
 - (v) self-direction;
 - (vi) capacity for independent living; and
 - (vii) economic self-sufficiency; and
- (E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of

lifelong or extended duration and are individually planned and coordinated.

"**DHS**" means the Oklahoma Department of Human Services (OKDHS).

"**Family counseling**" means activities to identify stresses within a family group and to develop the skills within the family to cope with problems or stresses presented by raising a child with developmental disabilities. These activities are provided by an appropriately licensed professional or through support groups.

"**Family homes**" means residences maintained by individuals biologically related to a person receiving services.

"**Family training**" means activities designed to equip family members, significant others, and persons with developmental disabilities with knowledge and skills which allow a family member with developmental disabilities to remain in or return to his or her home.

"**Goals**" means long-term categorical statements which describe what the individual is expected to achieve in a given time frame.

"**Group home for developmentally disabled and physically disabled adults**" means any establishment or institution other than a hotel, motel, fraternity or sorority house, or college or university dormitory for not more than 12 residents, 18 years of age or older who are developmentally disabled or physically disabled, and which offers or provides supervision, residential accommodations, food service, training and skill development opportunities designed to lead to increased independence of the residents, and supportive assistance to any of its residents requiring supportive assistance. Homes certified by OKDHS as foster homes, and living arrangements certified under the Adult Companion Home Certification Act, are not considered group homes.

"**Guardian**" means a person(s) appointed by a court as general or limited guardian of the person, general or limited guardian of property, special guardian or temporary guardian as provided by state statutes. The term does not include a person(s) appointed as guardian ad litem.

"**Guardian ad litem**" means a person(s) appointed by a court to represent the interests of an individual in a legal action.

"**Guardianship Assessment Team**" means the service recipient's core team members who are required to attend the Guardianship Assessment Team meeting.

(A) Members of the Guardianship Assessment Team include:

- (i) the service recipient;
- (ii) a personal advocate of the service recipient's choice;
- (iii) service recipient's family member(s);
- (iv) the service recipient's case manager;
- (v) representative of the OKDHS Office of Client Advocacy, if the service recipient is residing in a resource center or is a member of the Homeward Bound class;
- (vi) guardian ad litem representative, if identified as the service recipient's advocate;
- (vii) a physician, if the service recipient resides at a resource center; and
- (viii) a psychologist, if the service recipient resides at a resource center.

(B) Other team members whose presence is not required at the Guardianship Assessment Team meeting may be invited to participate as a Guardianship Assessment Team member, if these individuals know the service recipient well and have pertinent information for determining guardianship needs. Other Guardianship Assessment Team members may include:

- (i) the service recipient's primary physician, if the service recipient receives community supports;
- (ii) a psychologist, if the service recipient receives community services and the psychologist is a member of the service recipient's Personal Support Team; and
- (iii) interested parties, such as friends, residential or vocational staff, or other contract professionals.

"Habilitation services" means goal-directed services and therapy activities designed to assist a service recipient to achieve greater mental, physical, and social development. Activities are based on the service recipient's capacity to make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction, and personal relationships. The goal of habilitation services is to

strengthen developmental skills and resolve personal deficits that interfere with the service recipient's capacity to successfully remain in his or her home or other community-based settings.

"Homemaker services" means services which support persons receiving services in activities of daily living such as self-care, non-specialized mobility, cooking, shopping, home maintenance, and transportation and which are performed by paraprofessional providers in the place of residence of the person receiving services.

"Human Rights Committee" means the committee charged with the responsibility for ensuring the legal and ethical rights of individuals served.

"ICF/MR" means an intermediate care facility for the mentally retarded which is a residential facility licensed in accordance with state law and certified by the federal government as a provider of Medicaid services to persons who have mental retardation or related conditions.

"Incapacitated" means a determination made by the court that a person is unable to provide for and make decisions for the person's own needs and safety. The term incapacitated is used to indicate full or partial incapacity.

"Individual Habilitation Plan (IHP)" means a plan of intervention developed by the interdisciplinary team based upon assessment of need. It specifies all the goals and objectives being pursued on behalf of the individual, the steps being taken to achieve them and all of the services provided by each agency. The IHP is a single, consistent, and comprehensive plan that encompasses all relevant components of the individual's life. Various aspects of the plan such as education, rehabilitation, health care, and others are assigned to those persons or agencies who can best provide, or who are legally required to provide, the necessary services.

"Informed consent" means the voluntary consent by a person who has the legal capacity to consent after being informed of the nature, purpose, risks, and benefits of a proposed service or action.

"Intake" means the process by which an individual gains access to DDSD services. Intake staff:

(A) provide answers to specific service inquiries;

(B) assist in the identification of needs in times of crisis;

(C) supply information regarding the range and means of accessing available

services;

(D) provide assistance as necessary in service application;

(E) facilitate eligibility determination; and

(F) provide follow-up contacts as necessary to ensure that services fulfill need.

"Integrated vocational site" means a location or activity that provides regular interaction with people without disabilities, excluding service providers, to the same extent that a non-disabled worker in a comparable position interacts with others.

"Interdisciplinary Team (IDT)" means the decision-making body for service planning, implementation, and monitoring of the Individual Plan. Refer to definition for Personal Support Team.

"Intrusive procedure" means a procedure that impinges upon the bodily integrity of the individual. Use of intrusive procedures is regulated by OAC 340:100-5-26, 340:100-5-57, and 340:100-5-58. Intrusive procedures include, but are not limited to:

(A) the use of injections or oral medications administered for the sole purpose of controlling behavior;

(B) physical management or physical restraint; and

(C) mechanical restraints for medical reasons.

"Job coach" means an individual who holds an OKDHS approved job coach certification and provides ongoing support services to eligible consumers in supported employment placements. Services directly support the service recipient's work activity including marketing and job development, job and work site assessment, the training and assessment for the workers, job matching procedures, development of co-worker supports both natural and paid, and teaching job skills.

"Least restrictive alternative" means an arrangement that allows the service recipient opportunities to exercise choice, interact with non-disabled citizens, and participate in rhythms of life free of programmatic oversight to the extent of the service recipient's unique abilities.

"Long-term resident" means any resident of a nursing facility with mental retardation or related conditions who has continuously resided in a nursing facility for at least 30 consecutive months prior to the date of the first preadmission screening and

resident review (PASRR) disposition.

"Mental retardation" means a condition that refers to substantial limitations in present functioning. Mental retardation manifests before age 18. It is characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the applicable adaptive skill areas of:

- (A) communication;
- (B) self-care;
- (C) home living;
- (D) social skills;
- (E) use of community resources;
- (F) self-direction;
- (G) health and safety;
- (H) functional academics;
- (I) leisure; and
- (J) work.

"Natural supports" means assistance provided by a person who is not paid specifically to provide support to the service recipient, but who provides that support voluntarily. Natural supporters might include family members, friends, co-workers, neighbors, church members, members of a service recipient's club or interest group, or others in the service recipient's community.

"Non-prescription medication" means a pharmacological drug that is sold without a prescription and is prepackaged for use by the service recipient and labeled in accordance with the requirements of state and federal statutes and regulations.

"Normalization" means a principle which advocates that services provided to persons with developmental disabilities are provided in accordance with commonly accepted patterns and conditions of life experienced by the general population.

"Nursing facility" means an Oklahoma Medicaid-certified institution providing

skilled nursing and related services. It does not include a facility certified as an ICF/MR.

"Nutritional services" means assessment, consultation, planning, and monitoring activities conducted by a registered dietitian.

"Occupational therapy services" means assessment, consultation, planning, therapy, and monitoring activities conducted by an occupational therapist licensed by the Oklahoma Board of Medical Licensure and Supervision.

"OKDHS" means the Oklahoma Department of Human Services.

"Personal Support Team (Team)" means the decision making body for service planning, implementation, and monitoring of the Individual Plan. The Team includes the service recipient, his or her case manager, the legal guardian, and the person's advocate(s), if there is one, who may be a parent, a family member, a friend, or another who knows the person well. The term Personal Support Team replaces the term Interdisciplinary Team.

"Physical management" means an intrusive procedure involving any physical guidance to overcome resistance or brief upper body hold to ensure safety. Use of physical management is regulated by OAC 340:100-5-57.

"Physical restraint" means an intrusive procedure in which the person is physically held to restrict movement.

"Physical Status Review" means Form DDS-7, Physical Status Review, which is a written assessment that objectively identifies a service recipient's functional ability to attend to activities of daily living based on past and present health history and current treatment modalities. The completed Form DDS-7 assists the consumer and the Team to identify the service recipient's health care level, staff training requirements, health care coordination needs, and more in-depth assessment needs.

"Physical therapy" means assessment, consultation, planning, treatment, and monitoring activities conducted by a physical therapist licensed by the Oklahoma Board of Medical Licensure and Supervision.

"Plan of Care" means a summary listing of services prescribed within the IHP, which indicates the frequency, duration, and cost of each service recommended for funding through Home and Community-Based Waivered Services (HCBWS). This document is not required in service planning for individuals residing in an ICF/MR or who receive services funded through funding sources other than the Home and

Community-Based Services (HCBS) waiver.

"Preadmission screening and resident review (PASRR)" means the process of evaluating, reviewing, and establishing the need for nursing facility services in contrast to other services for people with mental retardation and related conditions.

"Prescription medication" means any drug ordered by a practitioner of medicine, dentistry, osteopathy, optometry, or podiatry who is licensed by law to prescribe such drug(s), which is intended to be filled, compounded, or dispensed by a pharmacist.

"Prevocational services" means services which are not job task oriented, but which are aimed at preparing a service recipient for paid or unpaid employment.

"p.r.n." means to take, or administer, a medication "as needed."

"Program coordinator" means a person employed by a DDSD residential or vocational contract provider agency who is responsible for the supervision, coordination, and monitoring of services to a service recipient provided by the contract provider agency.

"Proper consent" means obtaining prior written approval of the individual or the legal guardian specific to the use of a particular treatment approach defined as intrusive or restrictive.

"Psychological services" means assessment, consultation, planning, therapy, behavior treatment, and monitoring activities conducted by a licensed psychologist or by a psychological assistant.

"Psychotherapy services" means assessment, consultation, planning therapy, and monitoring activities performed by a board-certified psychiatrist or licensed psychologist.

"Psychotropic medication" means a pharmacological drug used to treat a mental disorder, or any drug prescribed to stabilize or improve mood, mental status, or behavior.

"QMRP" means a Qualified Mental Retardation Professional. This is an individual who meets ICF/MR regulations as specified in Title 42 of the Code of Federal Regulations (CFR), Chapter IV, Section 483.420. This requires a baccalaureate degree in a human services field, in addition to one year of experience serving persons with mental retardation.

"Related condition" means a severe, chronic disability [42 CFR, Section

435.1009] that:

(A) is attributable to:

(i) cerebral palsy or epilepsy;

(ii) any other condition, including autism. Any other condition excludes mental illness (MI) that is found to be closely related to mental retardation (MR) because it results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with MR and requires treatment or services similar to those required for persons with MR;

(B) is manifested before the person reaches age 21;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitations in three or more areas of major life activity, which include:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; and

(vi) independent living.

"Respite care services" means in-home and out-of-home activities provided for the primary purpose of temporarily relieving the family or primary caregiver from the responsibility of care giving. Providers of this service may include individual providers, foster homes, group homes, and state licensed and certified ICF/MR, or other multi-service agencies which achieve and maintain licensure in accord with state law and OKDHS rules and fulfill contract stipulations dictating required service, treatment, and environmental standards.

"Restrictive procedure" or **"restriction"** means a procedure that results in the limitation of the service recipient's rights. Use of restrictive procedures is regulated by OAC 340:100-5-57 and 340:100-5-58. Restrictive procedures include:

- (A) limiting communication with others;
- (B) any limitation of access to:
 - (i) leisure activities;
 - (ii) the service recipient's own money or personal property;
 - (iii) goods or services beyond normal budgetary considerations;
- (C) any limitation of movement at home or in the community; or
- (D) any direct observation procedures, specified as a result of challenging behavior, such as continuous one-to-one staffing during times or places which would otherwise be considered private.

"Sheltered employment" means a service which assists workers toward achieving their vocational potential through a controlled work environment, providing worker reimbursement in accordance with individual production and the Fair Labor Standards Act (FLSA). Sheltered employment services include assessment, training, and transitional programming leading to community job placements.

"Sheltered workshop" means a facility under the direction of a nonprofit organization that provides vocational training and sheltered employment services for workers with disabilities. Sheltered workshops often subcontract with businesses to provide work for the sheltered employees and typically pay their employees less than minimum wage, commensurate with the employee's production.

"Short-term resident" means any resident with mental retardation or related conditions who has resided in a nursing facility for less than 30 months prior to the date of the first PASRR disposition.

"Skilled nursing services" means nursing services in the community including preventative and rehabilitative procedures that fall within professional and legal bounds and are ordered by an attending physician. These services are prescribed and nursing plans are written for individuals as a result of the individual planning process and are included in the Individual Plan.

"Specialized foster care" means residential service option for eligible individuals with developmental disabilities between the ages of six through 17 whose primary need is placement in a family setting.

"Specialized services" means individualized services specified by the Mental Retardation Authority and listed in PASRR evaluations which, combined with services provided by the nursing facility or other service providers, results in a treatment regimen leading to the continued and ongoing enhancement of independence.

"Speech therapy" means assessment, planning, therapy, consultation, and monitoring activities provided by a licensed speech and language pathologist.

"Supplemental Security Income (SSI)" means a federal income subsidy program administered by the Social Security Administration.

"Supported employment" means competitive work in an integrated work setting with ongoing support services for service recipient's with severe disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe disabilities.

"Supported living arrangements" means a flexible array of habilitation and support services ranging from 24 hour in-home services to semi-independent living services which provides an opportunity for an adult with developmental disabilities to live in his or her own home.

"Team leader" or **"unit coordinator"** means a professional employed by a public or private agency who is responsible for assuring that services to a service recipient are planned and provided in a coordinated fashion. Additional responsibilities include advocacy, service coordination, and monitoring activities with and on behalf of service recipients.

"Terminal illness" means, as certified by a physician, a condition that results in a life expectancy of six months or less and requires continuous nursing care or medical supervision and treatment to address the person's physical condition.

"Transition" means the planned movement of an individual from one service setting to another, occurring as a result of Team recommendation and the informed consent of the service recipient.

"Transportation services" means services that include acquisition of, and training in support and payment for, the use of public or private transportation.

"Treatment team for specialized services" means the team whose purpose is to develop a prescribed plan of specialized services for each service recipient. The team is composed of the service recipient, guardian or advocate, nursing home representative, and other professionals and para-professionals as needed to develop a

comprehensive plan of services. Additional team members might include a psychologist, physical therapist, speech pathologist, physician, and nurse's aide among others. DDS staff assist nursing facility based teams in plan development and implementation as needed.

"Vocational assessment" means the employment service evaluation, whether or not standardized procedures are employed, that identifies the unique preferences, strengths, and needs of the service recipient, evaluates work skills and work behaviors, is supplemented by personal interviews and behavioral observations, and incorporates information that addresses the service recipient's medical, physical, psychological, social, cultural, and educational goals and objectives, as well as present and future employment options. The assessment is updated annually or more frequently as needed.

"Volunteer guardian" means a concerned citizen who serves, unpaid, as guardian for a service recipient. A volunteer guardian is appointed by the court and responsible to the court for the care of the person.

"Volunteer guardianship coordinator" means a DDS staff member who is responsible for the operation of the Volunteer Guardianship Program at the local level.

"Volunteer Guardianship Program" means a program which locates volunteers to serve as guardian for persons receiving services who are determined in need of a guardian and for whom no relative or friend is available to serve in that capacity.

"Volunteer Guardianship Program supervisor" means a DDS State Office staff member who is responsible for the oversight of the program.

"Ward" means a person over whom a guardian is appointed by the court.

SUBCHAPTER 3. ADMINISTRATION**PART 1. GENERAL ADMINISTRATION**

- 340:100-3-1. Eligibility determination for DDSD state-funded services
- 340:100-3-1.1. Competency
- 340:100-3-1.2. Rights
- 340:100-3-2. Client records, confidentiality and security
- 340:100-3-3. Communicable diseases
- 340:100-3-4. Service recipients' personal funds
- 340:100-3-4.1. Consumers' personal funds managed by contract residential providers **[REVOKED]**
- 340:100-3-5. Advocacy and guardianship
- 340:100-3-5.1. Volunteer Guardianship Program
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PART 3. OPERATIONS

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340:100-3-4. Service recipients' personal funds

(a) General information. Each person receiving services from Developmental Disabilities Services Division (DDSD) is assured access to his or her personal funds.

(1) Personal funds means income from all sources, earned or unearned, and assets. Income is money received in the current month. If any income is not used to meet the service recipient's needs during the current month, the remaining funds become a resource or asset of the service recipient in the following month.

(2) Provider agency staff, the service recipient's representative payee, and DDSD staff assist the service recipient in avoiding financial exploitation by others.

(3) After the service recipient's day-to-day needs for food and shelter are met, funds may be used for his or her personal needs such as recreation, clothing, and other expenses. The provider agency and the Personal Support Team (Team) work with the service recipient, as needed, to ensure that all needs are met.

(b) Prohibited transactions. Neither provider agency staff members nor DDSD employees engage in any financial transaction with the service recipient, including:

(1) giving gifts to the service recipient with a cumulative annual value greater than \$100;

(2) accepting gifts from the service recipient with a cumulative annual value greater than \$20;

(3) selling, purchasing, leasing, or trading any item(s) except:

(A) as part of an established business in which fair market value is received; or

(B) when approved in advance in writing by the Team;

(4) borrowing funds or any item of value from the service recipient; and

(5) loaning funds to the service recipient, except:

(A) loaning very small amounts, such as money for a meal or a recreational activity, for periods of time under 24 hours; or

(B) as part of a program authorized in advance in writing by the Team.

(c) **Living expenses.** The provider agency may lend funds to a service recipient to cover the service recipient's living expenses in expectation that funds will be available in the future that enable the service recipient to repay the loan. In such a situation, the provider agency submits ongoing written reports to the Team regarding the status of the service recipient's financial condition.

(d) **Protection of personal funds.** The provider agency safeguards the personal funds of the service recipient when such safeguarding has been determined necessary by the person's Team and authorized by the service recipient or guardian or when the provider is designated as the representative payee. In accordance with OAC 340:100-3-1.2, each service recipient has the right to manage, be taught to manage, and have assistance in managing his or her financial affairs and to have access to all financial records regarding his or her personal funds. Staff who have access to, or assist the service recipient with, the service recipient's personal funds, assure that:

(1) the personal funds are not co-mingled with provider agency funds;

(2) a separate financial record is maintained for each service recipient that includes receipts for all expenditures that are:

(A) over \$5; and

(B) made with agency staff involvement;

(3) a written accounting of the personal funds is maintained;

(4) a summary of financial transactions is available to the service recipient, guardian, DDSD case manager, and the Office of Client Advocacy (OCA) advocate, if involved:

(A) monthly; and

(B) when the service recipient ceases receiving service from the provider agency;

(5) copies of the written accounting and the summary of financial transactions are provided to the service recipient, guardian, and case manager upon request.

(6) the service recipient's personal funds account is reconciled at least monthly by a provider agency staff member who does not have authority to disburse funds from, or responsibility to deposit funds to, the account;

(7) documentation is maintained to support all transactions involving the service recipient's funds which are not independently controlled by the service recipient;

(8) the service recipient's income is deposited to his or her personal account within seven days of receipt;

(9) if the service recipient's income is held in an interest bearing account, the interest accrues to the service recipient;

(10) any personal cash which is not in the service recipient's possession is properly protected against theft;

(11) the service recipient receives requested funds within one banking day of the request;

(12) the service recipient, parent, guardian, or payee, as applicable, and the case manager are advised of eligibility requirements when the service recipient's account accumulates \$1200;

(13) personal funds are not used to supplement service rates or to purchase items which are part of the services that the service recipient is currently authorized to receive;

(14) prior to receiving services from a provider agency, a written agreement is executed between the service recipient, his or her guardian, family, or advocate and the provider agency. A copy of the agreement is given to each party, and a copy remains in the service recipient's record. The agreement includes:

(A) the responsibilities of the provider agency to the service recipient in handling the service recipient's personal funds;

(B) the service recipient's fiscal responsibilities; and

(C) services for which the service recipient's personal funds must be used;

(15) all requested financial information necessary for the maintenance of the service recipient's financial eligibility is provided to the Oklahoma Department of Human Services (OKDHS) and the Social Security Administration in a timely manner; and

(16) each service recipient receives choices in the selection of stores for the purchase of food, clothing, and personal items.

(e) Team planning and assistance to manage personal funds. The Team may limit, but not totally deny, a service recipient's access to or use of his or her personal funds only when a determination is made in accordance with this subsection that the limitation is essential to prevent the service recipient from unreasonably or significantly dissipating his or her personal funds.

(1) The Team follows rules established in OAC 340:100-3-1.2.

(2) Regular allowances or spending programs may be implemented on an individual basis, provided it is requested by the service recipient, guardian, or parent of a minor and reviewed by the service recipient's Team. The specific amount of the allowance is documented in the service recipient's plan. An allowance consists of a fixed amount of money that is regularly given to the service recipient to spend as he or she wishes.

(3) Justification for limiting access to and use of funds is documented in the service recipient's plan. The Team develops a plan to remove the restriction and includes specific dates to review the plan.

(4) The Team assures the service recipient is afforded due process prior to implementation of any financial restrictions.

(5) When determining whether or not to limit a service recipient's access to his or her personal funds, the Team addresses whether the service recipient:

(A) is able to recognize currency and coins, and their value;

(B) does not lose money regularly;

(C) does not leave money lying around;

(D) does not give money away;

(E) has the ability to make change or knows when to wait for change;

(F) shows responsible behavior regarding his or her money, paying bills on time, writing checks only when he or she has sufficient funds, and saving or planning for special items;

(G) understands his or her responsibility to pay room and board expenses; and

(H) understands budgeting so money will last all month.

(f) **Payee responsibilities.** In addition to the requirements of subsections (a) through (e) of this Section, individuals and organizations serving as payee for a service recipient's personal funds obtain a copy of the dispersing agency's regulations regarding payee responsibilities and adhere to the dispersing agency's requirements regarding payee responsibilities.

(1) The service recipient, his or her guardian, or representative payee or conservator is responsible for paying for room and board from the service recipient's income.

(2) A provider agency serving as payee uses direct deposit of benefits, if available.

340:100-3-5.1. Volunteer Guardianship Program

(a) **Purpose.** Developmental Disabilities Services Division assures that guardians are provided for service recipients of Developmental Disabilities Services Division (DDSD) who have been determined through an assessment process to need guardianship and for whom a guardian is unavailable through relatives or friends. A system to locate, screen, match, and monitor volunteer guardians for these service recipients is established and maintained by DDSD.

(b) **Responsibilities of Developmental Disabilities Services Division.** DDSD responsibilities in the Volunteer Guardianship Program are given in this subsection.

(1) When the need for a volunteer guardian has been determined the case manager is responsible for locating a potential guardian for the service recipient. In the absence of a case manager, the volunteer guardianship coordinator assumes responsibility for identifying a potential guardian. In attempting to locate a potential volunteer guardian, the case manager follows outlined procedures before reporting results to the Personal Support Team (Team). The Team makes a recommendation for an individual to be appointed guardian.

(2) Before recruiting a volunteer guardian, individuals are contacted and considered in the order listed in (A)-(J) of this paragraph as provided in Section 3-104 of Title 30 of the Oklahoma Statutes (O.S.). Persons considered are:

(A) an individual(s) nominated by the service recipient according to Section 3-102 of Title 30 of O.S.;

(B) a current guardian appointed by the court;

(C) an individual nominated by will or other writing of a deceased parent, spouse or adult child who was serving as the guardian of the service recipient according to Section 3-103 of Title 30 of O.S.;

(D) the spouse of the service recipient;

(E) an adult child of the service recipient;

(F) a parent of the service recipient;

(G) a sibling of the service recipient;

(H) an individual with whom the service recipient has been living for more than

six months prior to the filing of the petition per (c)(1)(D) of this Section;

(I) other relatives of the service recipient such as grandparent, grandchild, aunt, uncle, niece, or nephew; or

(J) other relatives of the service recipient who are residents of Oklahoma, according to Section 4-104 of Title 30 of O.S.

(3) If a potential guardian is not found, the case manager submits a request to the volunteer guardianship coordinator for volunteer guardianship services. The request includes documentation of attempts to locate a guardian.

(c) **Volunteer guardianship eligibility requirements.** Volunteer guardianship eligibility requirements are listed in (1) - (4) of this subsection.

(1) In order to be considered for a volunteer guardianship position, the criteria listed in (A) through (E) of this paragraph must be met.

(A) Volunteer guardians must be at least 18 years of age.

(B) An incapacitated or partially incapacitated person cannot be appointed guardian.

(C) Volunteer guardians must be residents of Oklahoma for at least one year, except as provided in Section 4-104 of Title 30 of O.S.

(D) An owner, operator, administrator, or employee of a facility subject to provisions of the Nursing Home Care Act, the Residential Home Care Act or the Group Homes for Persons with Developmental or Physical Disabilities Act or any other Oklahoma Department of Human Services (OKDHS) provider cannot be appointed guardian of a person receiving services from that provider agency or provider except as outlined in Section 3-104 of Title 30 of O.S.

(E) A background check is completed on potential volunteer guardians.

(2) Volunteers must possess the willingness and ability to devote time and energy to serve as guardian, including physical and emotional ability.

(3) Volunteer guardians must be court appointed.

(4) In accordance with Section 4-101 of Title 30 of O.S., a person cannot be appointed guardian for more than five people.

(d) **Responsibilities of a volunteer guardian.** The responsibilities of a volunteer guardian are provided in this subsection.

(1) The volunteer guardian is responsible for protecting the rights of the service recipient according to Section 3-118 of Title 30 of O.S.

(A) The guardian files a plan of care with the court within ten days of appointment as guardian.

(B) The guardian files an annual report with the court. Assistance in completing the annual report may be obtained from the case manager or volunteer guardianship program staff.

(C) The volunteer guardian is under legal duty to:

(i) know the service recipient, including his or her capabilities, needs, and physical and mental health;

(ii) maintain contact with the service recipient;

(iii) ensure the service recipient is living in the least restrictive environment which meets his or her needs;

(iv) provide necessary consents authorized by the court; and

(v) notify the court if the service recipient's incapacity has ended.

(D) A volunteer guardian's power is limited according to Section 3-119 of Title 30 of O.S.

(2) In performing their duties and exercising their powers, volunteer guardians:

(A) ensure the rights of the ward are protected;

(B) encourage the ward to participate to the maximum extent of his or her abilities in all decisions which affect the ward and to act on his or her own behalf on all matters in which the ward is able to do so within the limitations imposed by the court; and

(C) as appropriate, assist the ward to develop or regain to the maximum extent possible his or her capacity to meet the essential requirements for his or her health or safety.

(e) **Changes in guardianship.** The ward, any person interested in the welfare of the ward, or a volunteer guardian may make application to the court for:

- (1) termination of the guardianship;
- (2) removal of a guardian;
- (3) imposition of additional restrictions or the removal of existing restrictions; or
- (4) a review hearing.

(f) **Costs and fees.** Court costs are not charged for filing petitions and reports for individuals who are applicants for or recipients of Social Security, according to Section 192 of Title 56 of O.S.

(g) **Preparation of guardianship papers.** Preparation of the guardianship petition can be completed through different processes.

- (1) The services of an attorney may be acquired. Some attorneys prepare the necessary legal papers for indigent individuals pro bono.
- (2) Necessary paperwork for DDSD service recipients is prepared by the OKDHS Legal Division.
- (3) Petition for guardianship can be completed by the potential volunteer guardian. If the subject of the proceeding is not represented by an attorney, the court may appoint an attorney.

(h) **Monitoring of volunteer guardians.** Monitoring of the volunteer guardian is provided by the volunteer guardianship coordinator. The volunteer guardianship coordinator meets with the volunteer guardian at least annually or as needed.

(i) **Training requirements for volunteer guardians.**

- (1) Volunteer guardians participate in guardianship training on the responsibilities, duties, and limitations on the powers of serving as a guardian. Training is arranged by DDSD with no cost to the volunteer guardian.
- (2) Volunteer guardians receive orientation to applicable OKDHS rules and procedures regarding volunteer programs. Volunteer guardians are informed they are not covered by the Governmental Tort Claims Act because they are not authorized to act in behalf of OKDHS, nor can they be so authorized without

creating a conflict of interest in their roles as guardians.

(j) **Responsibilities of volunteer guardianship coordinator.** The volunteer guardianship coordinator is responsible for the operation of the program on the local level. Duties of the volunteer guardianship coordinator include:

- (1) reviewing guardian request and documentation;
- (2) recruiting concerned citizens to act as volunteer guardians;
- (3) requesting background checks of potential volunteer guardians;
- (4) contacting references. The volunteer guardianship coordinator sends OKDHS Form Vol-7, Volunteer Reference Letter, to a minimum of three references. If responses are not received, follow-up contact is made;
- (5) bringing the recommendation before the Team for review when a potential volunteer is identified;
- (6) arranging visits with the potential volunteer and service recipient;
- (7) arranging guardianship training and providing orientation on OKDHS rules and procedures; and
- (8) monitoring in accordance with subsection (h) of this Section.

(k) **Responsibilities of Volunteer Guardianship Program manager.** The Volunteer Guardianship Program manager is responsible for oversight of the program which includes:

- (1) completing and reviewing background checks for volunteer guardians;
- (2) supervising and assisting in volunteer recruitment;
- (3) reviewing assessment of competency for leads on potential guardian;
- (4) writing and interpreting the DDSD Volunteer Guardianship Program rules and procedures;
- (5) developing and conducting training for volunteer guardians;
- (6) performing on-sight reviews of local Volunteer Guardianship Program; and

(7) approving any volunteer as a potential guardian.

(l) **Responsibilities of Legal Division.** OKDHS Legal Division has legal authority according to Section 1415 of Title 10 of O.S. to file a petition for the appointment of a guardian for residents of OKDHS operated facilities for the mentally retarded. The Legal Division attorneys cannot provide any legal services to any other party or potential party in the guardianship cases, including the volunteer guardian or DDSD service recipient. The only legal services that are provided are to ensure compliance with Section 1415 of Title 10 of O.S. Other legal services in connection with these guardianships are not provided directly or indirectly by OKDHS.

340:100-3-27. Quality assurance

(a) Quality assurance activities assess and encourage the delivery of supports consistent with the preferences and needs of service recipients, Oklahoma Department of Human Services (OKDHS) rules, applicable Oklahoma Health Care Authority (OHCA) rules, requirements of contracts for services let through OHCA for Home and Community-Based Services (HCBS), regulatory standards applicable to services, and state and federal law.

(b) Case managers assess services rendered to each service recipient to ensure the effectiveness of services in meeting the needs of the service recipient. The case manager periodically observes service provision to assess implementation of the Individual Plan (Plan). The requirements given in this subsection are minimum expectations for face-to-face visits with service recipients. Additional visits may be required, at the discretion of case management, to ensure the health and welfare of service recipients.

(1) The case manager conducts face-to face visits to monitor the service recipient's well-being, health status, and effectiveness of services in meeting the service recipient's needs.

(A) For service recipients in the In-Home Supports Waiver:

(i) a face-to-face visit must be completed at least semi-annually; and

(ii) at least one of the two visits must occur at the site where the majority of services are provided.

(B) For service recipients in the Community Waiver:

(i) a face-to-face visit must occur monthly in the home of all persons receiving residential services as described in OAC 340:100-5-22.1 or group home services licensed under Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes;

(ii) a face-to-face visit must be completed at least quarterly for service recipients who do not receive residential services or group home services, with at least two of these visits occurring at the site where the majority of services are provided; and

(iii) the case manager visits the employment or day services site at least semi-annually when the services are funded through the Waiver, unless the

Personal Support Team (Team) requests an exception that is approved by the DDS area manager or designee.

(C) For service recipients in the Homeward Bound Waiver:

(i) a face-to-face visit must occur monthly in the home; and

(ii) the case manager must visit the employment site at least quarterly, unless the Team requests an exception that is approved by the DDS area manager or designee.

(D) For Homeward Bound class members who reside in an Intermediate Care Facility for persons with mental retardation (ICF/MR), the case manager visits monthly.

(2) Case managers review progress and ensure implementation of the Plan.

(A) The case manager completes the review monthly for persons receiving services through the Community Waiver or Homeward Bound Waiver, documenting the review through contact notes in the Client Contact Manager (CCM).

(B) For persons receiving services through an In-Home Supports Waiver, the case manager review occurs every six months and is documented through contact notes in CCM.

(3) If at any time the case manager believes that the person is at risk of harm, the case manager takes immediate steps to protect the person and notifies the case management supervisor and any other appropriate authorities.

(4) If the case manager determines that the needs of the service recipient have not been effectively addressed by a provider or that contractual responsibilities or policies are not met by the provider, the steps in this subsection are followed.

(A) The case manager consults with the relevant provider to secure a commitment for necessary service changes within an agreed upon time frame.

(B) If necessary changes are not accomplished within the specified time frame, the case management supervisor intervenes to secure commitments from the provider for necessary change.

(C) If the service deficiency is still not resolved as a result of the intervention of

the case management supervisor, a referral for administrative inquiry is initiated pursuant to OAC 340:100-3-27.1.

(5) If, during a contract survey, administrative inquiry, or person-centered evaluation, quality assurance staff recognize a situation that requires correction by Developmental Disabilities Services Division (DDSD) staff, a System Administrative Inquiry is initiated.

(A) The quality assurance staff member sends notification by e-mail to the DDSD staff member responsible to correct the situation, establishing a reasonable time frame for correction.

(B) If the identified staff member is unable to correct the situation within the established time frame, the quality assurance staff member sends notification of the situation by e-mail to the DDSD staff member's supervisor, establishing a reasonable time frame for correction.

(C) If the staff member's supervisor is unable to correct the situation within the established time frame, the quality assurance staff member notifies his or her supervisor, who notifies the DDSD area manager, establishing a reasonable time frame for correction.

(D) If the area manager is unable to correct the situation within the established time frame, the quality assurance supervisor notifies the programs administrator of Quality Assurance, who resolves the situation with the programs administrator for community services.

(c) At least annually, service recipients and families receiving supports are provided the opportunity to complete an evaluation of services, Consumer Service Evaluation, OKDHS Publication No. 89-10.

(1) Confidentiality is maintained unless the respondent authorizes OKDHS to reveal his or her name to those responsible for service delivery. Service evaluations may be completed anonymously if desired.

(2) Quality assurance staff distribute service evaluations to service recipients or their guardians at least annually.

(3) Completed evaluations are returned to the programs administrator of Quality Assurance.

(4) Results are forwarded to the respective DDSD area office when authorized by

the service recipient or guardian for resolution of concerns or recognition of staff as appropriate.

(5) An analysis of responses is completed and distributed for action by DDSD area offices, DDSD State Office, or OKDHS, as appropriate. Data is available to interested citizens upon request.

(d) Service recipients and families receiving supports participate in formal assessments of contract providers in order to promote service enhancement consistent with the expectations of service recipients.

(1) Oklahoma - Advocates Involved in Monitoring (OK-AIM) operates under the direction of the Oklahomans for Quality Services Committee (OQSC).

(A) The OQSC is composed of 15 individuals who receive services themselves or who have a family member receiving services. All areas of the state are represented.

(i) OQSC members may be nominated by the public at large, current members of the committee, or by representatives of DDSD.

(ii) Appointment of members occurs as a result of joint consensus by the chair of OQSC and the DDSD director or designee following a determination of the nominee's commitment to promote the interests of persons with developmental disabilities and the nominee's capacity to dedicate the time necessary to fulfill his or her responsibilities.

(iii) The members of the committee have the authority to elect officers based upon a simple majority vote and to establish by-laws governing the conduct of business.

(B) The OQSC:

(i) develops and refines procedures and the survey instrument used, based upon feedback received from service recipients and their families, providers, and other key constituents;

(ii) participates in the selection of agencies submitting proposals to conduct OK-AIM activities; and

(iii) serves as a resource for education and coordination of agencies conducting OK-AIM monitoring activities.

(2) DDSD issues an invitation to bid (ITB) in accordance with state law and OKDHS rules, soliciting proposals from qualified organizations to participate in the OK-AIM initiative. Qualified organizations include agencies that:

(A) are incorporated non-profit agencies dedicated to the representation of individuals with developmental disabilities and their family members;

(B) are not involved in service delivery funded through DDSD or the HCBS Waiver or the Alternative Disposition Plan (ADP) Waiver; and

(C) meet additional requirements set forth by federal and state statute and as indicated in the conditions of the ITB.

(3) Representatives of the OQSC are consulted regarding bids submitted in response to an ITB. Selection of a qualified organization(s) to conduct OK-AIM monitoring and reporting activities occurs as stipulated by rules and law.

(4) Agencies selected to conduct OK-AIM monitoring and reporting activities are responsible for:

(A) soliciting, screening, and training volunteers to conduct OK-AIM site visits;

(B) scheduling site visits with all providers of services referenced in the ITB within counties for which the agency has assumed responsibility;

(C) ensuring the consistency of volunteer and staff activities with:

(i) procedures and protocols approved by the OQSC; and

(ii) OKDHS and OHCA rules and state and federal law;

(D) accurately recording findings of OK-AIM monitoring activities;

(E) ensuring the provision of findings to provider agencies, when appropriate, and representatives of DDSD; and

(F) immediately notifying the DDSD area office of any issue identified during OK-AIM monitoring activities that presents risk to the health and welfare of a service recipient.

(5) DDSD area managers identify OKDHS staff responsible for resolving concerns identified during OK-AIM monitoring activities and notifying agencies responsible for

OK-AIM monitoring activities of how to contact these individuals during work, evening, and weekend hours.

(6) The OQSC, with the participation of DDSD State Office, area offices, and agencies conducting OK-AIM activities, identifies conditions that are determined to present significant risks to service recipients.

(A) Conditions determined to present imminent risk to service recipients are reported immediately to the:

- (i) statutory investigatory authority;
- (ii) DDSD area office; and
- (iii) provider agency chief executive officer (CEO) or designee.

(B) Issues that are determined to pose potential risk to service recipients are reported to area office staff, who notify the provider agency CEO or designee, by no later than the conclusion of the first working day following observation.

(C) OK-AIM monitors report any other issues thought to be significant to designated area office staff within time frames determined appropriate by the OK-AIM agency.

(7) DDSD staff immediately identify staff within the area office to assume responsibility for the verification and correction of problems posing imminent or potential risk. Time frames for the resolution of validated concerns are approved by the area manager based on the degree of risk involved. All identified concerns are resolved within 30 days from the date of initial notification of the DDSD area office unless an extension is authorized by the area manager in circumstances that pose no jeopardy to any service recipient. Concerns presenting immediate and significant risk to service recipients are corrected immediately.

(8) Each DDSD area manager designates staff to:

- (A) track the resolution of each identified concern; and
- (B) advise agencies conducting OK-AIM monitoring activities of the steps taken to resolve each concern.

(9) OK-AIM staff summarize the findings of each home visit conducted by volunteers, noting performance in the context of expectations established by the

OQSC and published in the OK-AIM training manual.

(A) Recommendations for service enhancement are presented to the relevant area office for review within 30 days of a home visit.

(B) Area office staff, in turn, share this information with the provider and collaborate on recommendations as well as other alternatives for achieving targeted service enhancement. The plans developed as a result are shared with OK-AIM staff during the next meeting. Provider comments or action plans are maintained with the OK-AIM report in area office files.

(10) The OK-AIM survey process is re-assessed at least annually by the OQSC based upon feedback solicited from service recipients, area office staff, providers, and other constituencies affected by, or involved in, the process.

(e) An independent authority annually assesses service outcomes for each person receiving residential services funded or administered through OKDHS, or HCBS. Assessments employ standardized measures, facilitating individual, as well as congregate, data analysis over time. Assessment protocols provide for the identification and resolution of circumstances posing immediate risk(s) to service recipients.

(f) Provider agencies failing to cooperate with provisions of the rules in this Section or providing falsified information in response to any inquiry undertaken pursuant to the rules of this Section are subject to the range of sanctions identified, including contract termination.

(g) Findings of significant non-compliance with human rights, rules, or law are immediately reported to the DDSD director and other relevant authorities for appropriate action, including disciplinary action of OKDHS employees as provided by OKDHS policy, or the imposition of sanctions, including suspension or termination of contract agreements with provider agencies, as provided by OAC 340:100-3-27.2.

(h) Provider agencies and OKDHS employees are prohibited from any form of retaliation against any service recipient, employee, or agency for reporting or discussing possible performance deficiencies with any authorized agent of OKDHS. Authorized agents for this purpose are OKDHS staff whose responsibilities include administration, supervision, or oversight of DDSD services, including case managers, case management supervisors, area managers, State Office administrators, Office of Client Advocacy personnel, and quality assurance staff.

(i) Additional components of the DDSD quality assurance program are found in OAC

340:100-3-27.1 through 340:100-3-27.5.

340:100-3-27.1. Contract performance surveys and administrative inquiries

Agencies providing services under contract with the Oklahoma Department of Human Services (OKDHS), or through a Home and Community-Based Waiver (HCBW) participate in performance surveys assessing compliance with expectations defined in the agency's contract with OKDHS or with Oklahoma Health Care Authority (OHCA) to HCBW services, or in OKDHS or OHCA rules.

(1) Performance surveys are conducted:

(A) with providers serving five or fewer service recipients when deemed necessary by the administrator of Developmental Disabilities Services Division (DDSD) Quality Assurance; and

(B) during each state fiscal year with providers of residential, vocational, or non-medical in-home supports serving six or more service recipients.

(2) OKDHS conducts interim administrative inquiries that evaluate the validity of allegations of non-compliance with provisions of the provider contract(s).

(A) Administrative inquiries are authorized by the administrator of DDSD Quality Assurance in response to complaints filed by any interested party that represent potentially serious breaches of service assurances, contract requirements, or OKDHS rules. The administrator of DDSD Quality Assurance or designee is authorized to conduct a screening to determine the potential validity of the complaint.

(B) Administrative inquiries are limited in scope to the responsibilities described in the provider's contract(s) with, or rules of, OKDHS or OHCA including, but not limited to, human rights assurances, service provision, and fiscal accountability.

(C) Allegations of abuse and neglect are immediately referred to statutorily identified lead agencies for investigation. OKDHS acts on the findings or recommendations of agencies with statutory responsibility to ensure provider compliance with provisions of law.

(D) Administrative inquiries are conducted by staff assigned to DDSD Quality Assurance although other resources of OKDHS, such as Office of Inspector General, may be requested to assist in the investigation of complaints.

(E) OKDHS is not required to provide advance notice of an administrative inquiry.

(F) Notifications to providers of findings and dispositions follow procedures established for performance surveys in subparagraph (L) of paragraph (3) of this subsection except that:

(i) written findings of administrative inquiries may instead be presented to an agency through mail and an exit conference may be conducted by telephone; and

(ii) the DDSD director or designee retains the authority to initiate an emergency disposition as specified by subsection (f) of OAC 340:100-3-27.2.

(3) Providers of direct services to six or more service recipients listed in paragraph (1) of this subsection participate in performance surveys assessing success in implementing contractual standards.

(A) The administrator of DDSD Quality Assurance or designee may provide written notice to provider agencies of scheduled performance surveys. DDSD advises the agency in writing of:

(i) demographic information and documents which must be provided to DDSD within two weeks of the postmark on the notice; and

(ii) documents which are to be available on the dates of the performance survey.

(B) Provider agencies may request a change of the schedule of the performance survey by contacting the administrator of DDSD Quality Assurance or designee. Authorization of a change in schedule occurs at the discretion of the administrator of Quality Assurance.

(C) DDSD Quality Assurance staff conducting performance surveys assess the delivery of services and realization of outcomes for a sample of people served by each provider agency. The sample is representative of service needs of the population served and the array of supports provided by the agency through contract with OKDHS. The sample includes at least one service recipient receiving each discrete service provided through the agency's contract with OKDHS or OHCA. The size of the sample is adjusted based upon the number of service recipient served by the agency under contractual agreement with OKDHS or OHCA.

(i) At least four service recipients are included in the sample of agencies serving 15 or fewer service recipients under contract with OKDHS or OHCA.

- (ii) At least eight service recipients are included in the sample of agencies serving between 16 and 100 people under contract with OKDHS or OHCA.
 - (iii) At least 12 service recipients are included in the sample of agencies serving over 100 people under contract with OKDHS or OHCA.
 - (iv) The size of performance survey samples may be increased at the discretion of performance survey team members.
- (D) Performance surveys and administrative inquiries are conducted by staff of the DDSD Quality Assurance Unit who have completed a minimum of 150 hours of training specific to the application and interpretation of OKDHS and OHCA contract standards and rules. Findings of performance survey team members who have not completed 150 hours of required training are not considered unless observations are confirmed by staff who have met this training requirement.
- (E) A private work area at the agency site is made available for surveyors during the course of the survey. If space is unavailable, the provider makes available copies of documents that may be taken for review by the performance survey team at another site.
- (F) Performance survey team staff meet with the chief executive officer (CEO) or designee of a provider agency upon arrival to:
- (i) discuss the survey schedule;
 - (ii) identify the balance of the survey sample;
 - (iii) determine locations where services are provided; and
 - (iv) make tentative arrangements for an exit conference.
- (G) Agency staff and agency records are made available to the team as necessary to assess agency performance with provisions of rules and their contract(s) with OKDHS or OHCA.
- (H) Performance survey teams observe and meet with service recipients served and staff involved in each type of service provided by the agency through contract(s) with OKDHS, or with OHCA for the HCBW services.
- (i) Interviews and observations are conducted in a manner minimizing

disruption of service activities.

(ii) Observations and interviews occur during varied hours of service delivery.

(I) Performance survey team personnel evaluate information secured from observations, interviews, and record reviews in the context of relevant contract standards and rules.

(J) Performance survey teams immediately report to appropriate authorities, conditions or actions of agency staff that are possibly abusive or negligent or which otherwise pose immediate jeopardy to the health or safety of service recipients.

(K) Performance survey team staff provide a written summary of findings to the CEO or designee of the provider agency on the final day of the survey. The summary of findings is presented at least two hours prior to the scheduled exit conference. The CEO or designee of the provider agency may waive the two-hour period between presentation of the summary and the exit conference or the exit conference itself.

(L) The provider agency may structure the exit conference in a manner determined most beneficial to the agency.

(i) The agency may invite staff, service recipients, family members, and other citizens to participate.

(ii) Performance survey team personnel provide an explanation of findings and standards, as requested by the agency.

(iii) Performance survey team personnel provide an explanation of the procedures described in this Section that are available to the agency regarding any disputed findings.

(iv) During the exit conference, the agency may submit evidence contesting the citation of standards. Performance survey team members review presented evidence and, for each contested standard, may:

(I) reverse the entire citation;

(II) reverse a portion of the citation; or

(III) affirm the citation.

- (v) Within one week of the exit conference, the agency sends to the administrator of DDS Quality Assurance a written response that identifies a date by which the agency will comply with the cited requirement.
- (I) Any projected resolution date beyond two months from the exit conference is accompanied by a justification.
 - (II) Approval of extended resolution dates occurs only upon the presentation of evidence that extensive change in agency management systems or extensive expenditures is essential to resolution of the problem.
 - (III) The agency presents plans and time frames to implement incremental changes necessary to achieve contract conformance when an interval of more than two months is requested.
- (vi) The agency may send supplemental information to the administrator of Quality Assurance contesting the findings of the performance survey team within one week of the exit conference. An appeal does not relieve the agency from the responsibility to achieve resolution of contract deficiencies within two months from the date of the exit conference if the request for reversal is not supported through procedures described in paragraph (5) of this subsection.
- (4) The findings of performance surveys and administrative inquiries, as well as any appeals, are reviewed by the administrator of DDS Quality Assurance or designee.
- (5) The administrator of Quality Assurance or designee issues, within 30 days of the report detailing findings, a preliminary determination regarding:
- (A) any standard citation appeal by the agency;
 - (B) acceptance or revision of resolution dates proposed by the provider to achieve conformance with the provisions of the contract(s) or rules; and
 - (C) when necessary, specific corrective action(s) is undertaken by the agency, including that:
 - (i) the agency reimburse OKDHS or OHCA for unsubstantiated or unauthorized claims;
 - (ii) the agency reimburse service recipients for the balance of funds managed

by the agency contrary to the expectations of OAC 340:100-3-4; and

(iii) service provision is immediately suspended or modified when it is determined there is imminent risk to the health or safety of service recipients.

(6) Performance survey teams conduct focused re-surveys to assess resolution of identified contract deficiencies.

(A) Focused re-surveys including a new random sample are conducted at any time following the established resolution date.

(B) Focused re-surveys require no advance notice.

(C) Focused re-surveys may, at the discretion of the performance survey team, be expanded to include any new performance issue identified.

(D) Focused re-surveys evaluate whether the provider has corrected identified deficiencies by the approved resolution date. The written report provided to the provider includes any new performance issues identified as well as the:

(i) resolution of conditions resulting in the citation of a standard;

(ii) implementation of actions likely to resolve the citation of a standard over a period of time; and

(iii) continued existence of a deficiency.

(E) Following a focused re-survey the provider is informed of the results.

(i) The provider may submit evidence contesting a citation.

(ii) New citations found during the focused re-survey are added to the report of the original survey for consideration by the Performance Review Committee.

340:100-3-28. Volunteer services

(a) All Developmental Disabilities Services Division (DDSD) volunteer service programs link service recipients to volunteers who can provide a needed service. Upon availability, DDSD provides volunteers to service recipients who have unmet needs. DDSD provides volunteers with meaningful service opportunities while offering support to service recipients.

(b) In addition to the requirements given in OAC 340:2-35-1, the volunteer and the DDSD volunteer services staff must meet the requirements given in this subsection.

(1) The volunteer:

(A) completes Form VOL-5, Application for Volunteer Service, and submits the form to the local DDSD volunteer services office;

(B) attends any required on-the-job training prior to volunteer duties being assigned;

(C) submits a completed Form VOL-3, Volunteer Agreement, to the local DDSD volunteer services office;

(D) maintains a record of consumer contacts using Form VOL-4, Volunteer Report of Contact, and submits the completed form to the local DDSD volunteer services unit on a monthly basis; and

(E) must not be listed on the Community Services Worker Registry.

(2) The DDSD volunteer services staff:

(A) mails Form VOL-7, Volunteer Reference Letter, to the three people listed on Form VOL-5. The reference letters must be on file in the DDSD volunteer office prior to a volunteer being assigned duties;

(B) interviews the volunteer prior to, and at the end of, the job assignment and records data on Form VOL-9, Volunteer Interview Report;

(C) sends the original Form ADM-130, Request for Background Check, to the State Office, DDSD coordinator of volunteer services, who completes:

(i) the Department of Public Safety (DPS) traffic check;

- (ii) an Oklahoma State Bureau of Investigation (OSBI) criminal check;
 - (iii) a Community Services Registry check, as required by OAC 340:100-3-39;
and
 - (iv) notification to the local volunteer services staff when all checks are completed;
- (D) provides job-specific training for volunteers and presents an overview of the Oklahoma Department of Human Services and DDSD. Orientation and training are documented in each volunteer's file;
- (E) submits the Form VOL-6, Volunteer Monthly Report, to the DDSD State Office coordinator of volunteer services by the 7th of each month for the previous month. The report includes a program narrative describing activities such as speaking engagements, community volunteer activities, donations of goods or services; and
- (F) forms an advisory council, of individuals who are dedicated to volunteerism and to Oklahomans with developmental disabilities. The advisory council assists the volunteer services staff with program functions, fund raising, or other identified needs.

340:100-3-29. Foster Grandparent Program

All foster grandparent volunteer activities and requests for senior volunteers are recorded and monitored through the Oklahoma Department of Human Services (OKDHS) Foster Grandparent Program Office, in accordance with the Domestic Volunteer Service Act (DVSA) of 1973, Public Law (P.L.) 93-113, as stated in the Foster Grandparent Program Operations Handbook, April 2000.

- (1) Foster Grandparent Program volunteers work with children, chronologically 21 years of age or less.
- (2) Volunteers receive an hourly stipend if total household income is within the National Senior Service Corps (NSSC) guideline.
- (3) Volunteers work no more than 2,088 hours per year.
- (4) Volunteers receive all benefits as stipulated in the Corporation for National Service, NSSC Foster Grandparent Program Operations Handbook.
- (5) A background check is completed prior to a potential foster grandparent serving as a volunteer and every three years thereafter. The background check includes checks of:
 - (A) the sex offender registry;
 - (B) the Developmental Disabilities Services Division Community Services Worker Registry;
 - (C) criminal background; and
 - (D) traffic history.
- (6) Prior to volunteering and annually thereafter, the foster grandparent must have an OKDHS vendor contract in force for the reimbursement of travel, meals, or stipends if applicable.
- (7) Foster Grandparent staff submit monthly expenditure reports to the OKDHS Finance Division federal programs accountant.

SUBCHAPTER 5. CLIENT SERVICES**PART 1. ADMISSION AND SAFEGUARDS**

Sections

- 340:100-5-1. Admission **[REVOKED]**
- 340:100-5-2. Service safeguards
- 340:100-5-3. Emergency Services

PART 3. SERVICE PROVISIONS

- 340:100-5-15. Developmental Disabilities Services Division (DDSD) case manager activities
- 340:100-5-16. Individual Habilitation Plan **[REVOKED]**
- 340:100-5-17. Habilitation services - professional and paraprofessional
- 340:100-5-18. Employment services **[REVOKED]**
- 340:100-5-19. Support services
- 340:100-5-20. Respite care
- 340:100-5-21. Family training and counseling
- 340:100-5-22. Residential services
- 340:100-5-22.1. Community residential supports
- 340:100-5-22.2. Assisted Living without Waiver supports
- 340:100-5-22.3. Authorization for community residential supports **[REVOKED]**
- 340:100-5-22.4. Residential options for Homeward Bound class members
- 340:100-5-22.5. Supported living services
- 340:100-5-23. Specialized foster care contracted by individuals **[REVOKED]**
- 340:100-5-24. Adult Companion Services contracted by individuals **[REVOKED]**
- 340:100-5-24.1. Companion Services/Adult Foster Care contracted by agency **[REVOKED]**
- 340:100-5-24.2. Guidelines for Department staff for Agency Companion/Adult Foster Care Programs **[REVOKED]**
- 340:100-5-25. Service authorization/client services/service provisions/residential services
- 340:100-5-26. Health services
- 340:100-5-26.1. Psychotropic medication
- 340:100-5-26.2. End-of-life issues
- 340:100-5-26.3. Health-related services
- 340:100-5-27. Skilled nursing services
- 340:100-5-28. Community health services **[REVOKED]**
- 340:100-5-29. Monitoring for dyskinesia
- 340:100-5-30. Adult day care
- 340:100-5-32. Medication administration
- 340:100-5-33. Medication events

PART 5. INDIVIDUAL PLANNING

- 340:100-5-50. Principles of individual planning
- 340:100-5-51. Individual assessment
- 340:100-5-52. The Personal Support Team (Team)
- 340:100-5-53. The Individual Plan (Plan)
- 340:100-5-54. Planning for obstacles
- 340:100-5-55. Person-centered assessment **[REVOKED]**
- 340:100-5-56. Risk assessment
- 340:100-5-57. Protective intervention plan
- 340:100-5-57.1. Reporting and monitoring the use of restrictive or intrusive procedures or emergency interventions
- 340:100-5-58. Prohibited procedures

340:100-5-22.1. Community residential supports

(a) **Applicability.** Community residential supports are funded through contracts with the Oklahoma Department of Human Services (OKDHS), Oklahoma Health Care Authority (OHCA), or both, and must meet standards given in this Section.

(1) A person is considered to be receiving community residential supports if the person receives:

(A) Daily Living Supports, as described in OAC 317:40-5-150;

(B) Prader-Willi services;

(C) agency companion services, as explained in Subchapter 5, Part I of OAC 317:40; or

(D) specialized foster care, as explained in Subchapter 5, Part 5 of OAC 317:40.

(2) The rules in this Section do not apply to:

(A) group homes licensed under Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes;

(B) services provided to persons who receive only Developmental Disabilities Services Division (DDSD) state-funded services through Assisted Living without supports, as explained in OAC 340:100-5-22.2; or

(C) services provided to a service recipient who lives with his or her family.

(b) **General information.** Community residential supports are provided in accordance with this Section, with the DDSD mission statement and guiding principles found at OAC 340:100-1-3.1, and all other applicable rules in this Chapter.

(1) Services for children are provided in family settings unless approved by the DDSD programs administrator of Community Services or designee.

(2) In addition to the rules in OAC 340:100-5-50 through 340:100-5-58, the case manager ensures that each Personal Support Team (Team) assesses and addresses the service recipient's needs regarding:

(A) safety in the home, including:

- (i) storage of toxic chemicals, cleaning supplies, and combustibles; and
 - (ii) use of an anti-scald device or lowered hot water tank temperature to control water temperature;
- (B) financial issues in addition to the rules at OAC 340:100-3-4, including:
- (i) a household budget which provides adequate resources for housing, food, clothing, furnishings, personal supplies, and recreational opportunities; and
 - (ii) assistance needed by the service recipient in money management;
- (C) selection, adaptation, and maintenance of a home;
- (D) community inclusion and access to work, recreation, and therapies; and
- (E) transportation.
- (3) Each service recipient is responsible for his or her room and board expenses, including recreational activities, clothing, furnishings, food, and other expenses for services or supports not funded through OKDHS, except as:
- (A) provided to members of the Homeward Bound Class; or
 - (B) approved in emergency circumstances according to OAC 340:100-3-33 or 340:100-5-3.

(c) **Homes.** Community residential supports are provided in the home of the service recipient. The provider agency ensures the home meets the requirements of this subsection.

- (1) The home and yard are clean, well-maintained, safe, free from hazards, and adapted to the needs of the service recipient.
- (2) The home has utility service and adequate heating, cooling, and plumbing.
- (3) Items that must be in operating condition and located in strategic locations in the home are:
 - (A) a flashlight;
 - (B) smoke detector(s);

(C) carbon monoxide detector(s);

(D) first aid kit;

(E) fire extinguisher; and

(F) an anti-scald device, when determined by the Team to be necessary to ensure the service recipient's safety.

(4) Telephone service within the home is available and accessible to service recipients. Emergency numbers are available at each phone, including:

(A) DDS toll free number;

(B) fire, police, ambulance, hospital, and poison control, if not in a 911 area;

(C) physician name(s) and number(s); and

(D) nursing agency number, if applicable.

(5) The home has at least two means of exit.

(6) Each service recipient living in the home has a bedroom of at least 80 square feet. If a service recipient wants to share a bedroom with another, the bedroom must have 120 square feet or more.

(7) Adequate enclosed storage space is available for personal items.

(8) Laundry equipment, if in the home, is located in a safe, well ventilated, and clean area, with dryers vented to the outside.

(9) The address of the home is clearly visible from the street.

(10) The home has a bathroom that:

(A) includes a:

(i) flush toilet;

(ii) fixed basin; and

(iii) shower or tub that meets the service recipient's needs;

- (B) is in proper working order;
- (C) provides privacy;
- (D) is adapted if needed; and
- (E) provides hot and cold running water.

(11) The home has a kitchen and equipment to store, prepare, and serve food in a sanitary manner.

(12) Dangerous or deadly weapons are not permitted in the home, except as provided in OAC 317:40-5-40. Provider agency staff are prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include but are not limited to:

- (A) guns, BB guns, air rifles, or other firearms;
- (B) crossbows;
- (C) paint guns;
- (D) arrows;
- (E) explosives;
- (F) stun guns; and
- (G) knives, except cooking and eating utensils.

(13) Illegal substances are not permitted in the home.

(d) **Pre-service requirements.** The DDSD case manager and the service recipient, or legal guardian, complete and approve the steps given in this subsection when community residential supports are initiated, when the service recipient changes provider agencies, and before the service recipient moves to a new home. The documentation of these steps is maintained in the home record and the case manager record.

(1) Prior to service delivery, the provider completes an emergency housing back-up plan for review and approval by the service recipient's Team in accordance with OAC 340:100-5-52.

(A) The back-up plan contains:

- (i) the service recipient's name;
- (ii) description of living arrangement;
- (iii) name(s) and telephone number(s) for back-up staff;
- (iv) back-up housing location;
- (v) signature of agreement by the:
 - (I) service recipient or legal guardian;
 - (II) direct provider of service, if a foster care provider or companion;
 - (III) agency program coordination staff (PCS);
 - (IV) provider agency administrative representative; and
 - (V) DDS case manager;
- (vi) dates for review of back-up plan, required monthly and as changes occur; and
- (vii) review date by DDS case manager.

(B) When the location for the back-up plan is a hotel or motel, the provider agency is responsible for including a plan to pay the cost without additional reimbursement from OKDHS.

(C) OKDHS must complete a home profile on a private home prior to the Team's identification of the home in the back-up plan or use of the home to provide back-up services to the service recipient. A home profile is not required if the:

- (i) home is an approved foster home;
- (ii) home is an approved agency companion home; or
- (iii) service recipient stays in the private home of his or her relative, as defined in subparagraph (f)(4)(A) of this Section.

(D) The agency companion provider or the provider of specialized foster care is responsible for re-establishing a residence if his or her home becomes uninhabitable.

(2) The provider agency cooperates with the service recipient and the Team to establish and maintain a household budget based on the service recipient's earned and unearned income.

(A) Expenses associated with supporting the household are maintained in an auditable fashion sufficient to track the use of the money collected from the service recipient by the contract provider.

(B) Upon request, the contract provider furnishes to the service recipient, the service recipient's family, and legal guardian:

(i) a record of all funds collected from the service recipient;

(ii) documentation of how the money was used; and

(iii) the amount of remaining money held by the provider.

(C) Upon termination of residential supports from the contract provider, unused funds are returned to the service recipient within ten calendar days of service termination date.

(3) Form DDS-34, Residential Pre-Service Checklist, is completed, and all requirements of this Section are satisfied.

(e) **Service requirements.** Community residential supports are provided according to the rules given in this subsection.

(1) Unless the service recipient demonstrates the ability under varying conditions to independently and appropriately respond to emergency situations, the provider agency assists in conducting fire drills at least quarterly and weather emergency drills two times annually. The dates, times, and outcomes of the drills are available in the home for review.

(2) The provider ensures that all requested financial information necessary for maintaining the service recipient's financial eligibility is provided to OKDHS in a timely manner.

(3) The provider, when serving as payee, ensures that the service recipient

maintains financial eligibility for benefits and services by notifying appropriate authorities of a change in the service recipient's income.

(4) When a change of payee is necessary, the provider cooperates to ensure that the change is made in a timely manner.

(5) The provider agency establishes a written financial agreement with the service recipient or the legal guardian, which defines the financial responsibilities of the agency and of the service recipient.

(A) The agreement accurately reflects the ongoing financial arrangement between the provider and the service recipient.

(B) The agreement clearly defines who purchases personal items.

(C) The provider, as a member of the service recipient's Team, assists in determining the safeguards necessary to protect the service recipient's assets.

(D) The financial agreement is renewed annually and when changes occur.

(E) The financial agreement is available to the service recipient, guardian, Office of Client Advocacy (OCA) advocate, and the DDSD case manager.

(6) Service recipients select stores for the purchase of food, clothing, and personal items.

(7) The provider agency implements the service recipient's Individual Plan (Plan).

(8) The provider agency provides necessary assistance, including transportation and necessary staff support, for each service recipient's active participation in community life.

(9) The provider agency assists the service recipient in maintaining an adequate supply of seasonal clothing that fits appropriately, personal grooming materials, and linens. All items are maintained in good condition.

(10) The provider agency promotes the service recipient's health and well-being, including providing meals that meet the service recipient's nutritional needs.

(11) The provider agency promotes visitation and contact with each service recipient's natural family, guardian, and friends, according to the desires of the service recipient.

(12) The provider agency promotes friendships with neighbors, co-workers, and peers, according to the desires of the service recipient.

(13) In the event the service recipient, the legal guardian, or the provider agency wishes to discontinue services, the provider agency cooperates in securing alternative services and continues to serve the service recipient until the Team confirms that all essential services are in place.

(14) While providing services, provider agency staff are engaged at all times in purposeful activity which directly or indirectly benefits the service recipient.

(15) The provider ensures that the service recipient attends scheduled medical and therapy appointments.

(A) Transportation to the appointment is provided.

(B) Adequate records, needed materials, and equipment accompany the service recipient to the appointment.

(C) If the service recipient requires support in describing illness, issues, or concerns to the practitioner, knowledgeable staff accompany the individual service recipient.

(16) The provider agency ensures that prescriptions are filled and administered as prescribed.

(17) The provider agency ensures that the Plan addresses in a positive manner any issues related to maintaining areas of the home as required in subsection (c) of this Section.

(18) The provider ensures that the service recipient has transportation to programs and services.

(A) Transportation is provided to and from:

(i) medical or therapy appointments;

(ii) personal shopping;

(iii) leisure or recreational activities;

(iv) vocational or employment activities;

- (v) religious or cultural activities;
- (vi) Team meetings;
- (vii) appointments necessary to secure or maintain needed services; and
- (viii) voting.

(B) All vehicles used to transport the service recipient meet local and state requirements for licensing, inspection, insurance, and capacity.

(C) A vehicle used to transport a service recipient with physical disabilities is adapted to meet the needs of the service recipient.

(D) Drivers of vehicles have valid and appropriate driver licenses.

(f) **Provider policies, practices, and procedures.** The provider agency develops and maintains written policies and procedures that are consistent with OKDHS rules and govern all aspects of service provision.

(1) Provider agency policies are made available to each service recipient, his or her parent, legal guardian, or advocate, provider agency staff member, and OKDHS.

(2) Provider agency policies and procedures include, but are not limited to:

- (A) service recipient rights protection;
- (B) services provided;
- (C) admission and discharge of criteria;
- (D) grievance procedures;
- (E) prevention and reporting of abuse, neglect, and exploitation;
- (F) confidentiality;
- (G) emergency management;
- (H) fees paid by service recipient;
- (I) health and safety precautions; and

(J) safeguarding service recipients' funds.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring that direct service staff:

(A) are not supervised by a relative or by a person living in the staff member's home. For the purposes of this subparagraph, relative is defined to include wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any of the above with whom the employee shares a foster relationship;

(B) who provide back-up services are available and have received all training required in OAC 340:100-3-38;

(C) are at least 18 years of age;

(D) are present in sufficient numbers to ensure the health, safety, and well-being of the service recipient, as authorized by the service recipient's Plan of Care;

(E) are physically able and mentally alert to carry out the duties of the job;

(F) implement and follow the service recipient's Plan, as written; and

(G) do not take the service recipient to visit a staff member's home unless the Team has provided prior written approval.

(5) The provider agency ensures that PCS supervise, guide, and oversee all aspects of programming associated with the receipt of community residential supports.

(A) The PCS must:

(i) get to know the service recipient and his or her needs;

(ii) make announced and unannounced visits to the individual's service recipient's home. The PCS makes a minimum of three unannounced monitoring visits per month, based on the needs of the service recipient and

the need for supervision of staff. Of the unannounced visits:

(I) at least one unannounced visit each month must occur on Saturday or Sunday; and

(II) another must occur between 8:00 p.m. and 7:00 a.m. on a weekday;

(iii) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;

(iv) be accessible to direct service staff 24 hours per day and available to respond, in person if necessary, to an emergency;

(v) supervise direct contact staff to promote achievement of outcomes in the Plan;

(vi) ensure that staffing levels meet the requirements of the service recipient's Plan, with staff trained in accordance with OAC 340:100-3-38;

(vii) ensure that records are maintained according to the requirements of the DDSD community records system;

(viii) ensure that basic household requirements are always in place, including:

(I) utilities and phone service;

(II) furniture;

(III) food supplies that meet the service recipient's nutritional needs;

(IV) linens;

(V) personal items;

(VI) adaptive equipment; and

(VII) prescription medications;

(ix) assist the case manager as requested to prepare for and implement the Plan and its revisions in accordance with OAC 340:100-5-50 through 340:100-5-58;

- (x) ensure rules of OKDHS and OHCA are followed; and
 - (xi) complete necessary training as specified in OAC 340:100-3-38.
- (B) Each person filling this role in a provider agency must have a minimum of four years of any combination of college level education and full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDS director or designee.
- (C) Provider agencies ensure that the caseload of each PCS numbers no more than 15 service recipients if the PCS serves service recipients receiving community residential supports.
- (D) Provider agencies providing community residential supports for less than one year ensure that the caseload of each PCS numbers no more than ten service recipients if the PCS serves service recipients receiving community residential supports.
- (E) The DDS director may grant a written exception to the program coordinator ratios given in this paragraph upon written request and adequate justification from the provider.
- (F) Provider agencies who fail to meet the program coordination requirements of this paragraph may be required to provide a reduced PCS ratio in accordance with the DDS sanctions rules found in OAC 340:100-3-27.
- (6) Staff who assist a service recipient with bathing or showering have the responsibility to ensure the water temperature is safe and comfortable for the individual being bathed. The requirements of this paragraph are enforced even if an anti-scald device is in use. The staff member:
- (A) tests the water temperature by touch before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff member;
 - (B) are trained by their employer in the unique needs of each service recipient including tolerance to water temperature and bathing needs; and
 - (C) do not leave a service recipient who is unable to attend to safety considerations alone in the bath.

340:100-5-26.3. Health-related services

(a) Scope and applicability. The rules in this Section apply to persons with mental retardation who:

(1) receive Home and Community-Based Waiver Services or state-funded Developmental Disabilities Services Division (DDSD) services; and

(2) have a need for health-related service or supportive assistance that the Personal Support Team (Team) has identified according to OAC 340:100-3-33.1 and 340:100-5-50 through 340:100-5-58.

(b) Supportive assistance. Supportive assistance services are those services rendered to a person with developmental disabilities that are sufficient to enable the service recipient to meet an adequate level of daily living. Supportive assistance services include:

(1) training;

(2) supervision;

(3) assistance in housekeeping;

(4) assistance in the preparation of meals; and

(5) assistance in activities of daily living (ADLs) as necessary for the health and comfort of the service recipient. ADLs include those personal care and normal routine activities in a person's life that provide for the health and comfort of the service recipient.

(c) Health-related services. Health-related services are those services provided by community service providers or community service workers, direct support staff, to persons with developmental disabilities that include, but are not limited to:

(1) mobility and transferring including, but not limited to:

(A) prosthetics application;

(B) splint application; and

(C) positioning and comfort;

(2) range of motion; and

(3) basic nursing care.

(A) Basic nursing care includes:

(i) taking temperature, pulse, and respiration;

(ii) positioning;

(iii) incontinent care; and

(iv) identification of signs and symptoms of disease.

(B) Other basic nursing care tasks that may be performed by direct support staff if the staff member has completed appropriate training provided or approved by the Oklahoma Department of Human Services (OKDHS), the service recipient's Team has agreed in writing to the performance of the task, and the service recipient's physician has given acknowledgement and a specific order related to the task are:

(i) nutrition, including but not limited to:

(I) instilling medications or nutrition through a gastrostomy tube or jejunostomy tube;

(II) maintenance of the tube and the site; and

(III) fluid support, including documentation of intake and output;

(ii) blood and urine dip stick glucose monitoring;

(iii) hygiene including, but limited to:

(I) stoma care;

(II) ostomy bag care;

(III) wound care, non-sterile dressing changes; and

(IV) oral and dental care including suctioning;

(iv) elimination including, but not limited to:

(I) application of external catheter;

(II) administration of enema; and

(III) stool and urine collection; and

(v) health and safety needs including, but not limited to:

(I) pulse oxygen reading for data collection and reporting of signs and symptoms or concerns to a health professional;

(II) suctioning of the opening of a tracheostomy tube;

(III) administration of oral metered dose inhalers and nebulizers;

(IV) non-sterile catheterization;

(V) oxygen administration;

(VI) chest physiotherapy and positioning for postural drainage; and

(VII) vagal nerve stimulator activation.

(d) Provision of health related services and supportive assistance services. The service recipient's Team develops a Plan of Care that incorporates the service recipient's needs, based on the physical status review (PSR) as described in OAC 340:100-5-26, professional evaluations, and team recommendations.

(1) Each community service worker completes competency-based classroom training and any individual-specific training as specified in OAC 340:100-3-38.

(2) When a licensed professional trains specific tasks to a community service worker, the licensed professional monitors and supervises that community service worker in accordance with the professional's licensing requirements.

(A) The licensed professional validates the community service worker's ability to safely and accurately perform the specific health-related service through documented hands-on return demonstration.

(B) The licensed professional who is responsible for the service or task must:

(i) assess the service recipient's care needs prior to the competency-based training and delegation;

(ii) develop a service plan;

(iii) using prudent judgment, make the final decision as to which services are trained or delegated, within the specific scope of the licensed professional's judgment;

(iv) implement the plan; and

(v) evaluate the outcome of the services.

(C) The degree of supervision required must be determined by the licensed professional after evaluation of appropriate factors involved, including but not limited to, the:

(i) stability of the condition of the service recipient;

(ii) training and capability of the community service worker;

(iii) nature of the task; and

(iv) proximity and availability of the licensed professional to the community service worker when performing the task.

(3) The community service worker's performance of health-related and supportive assistance services is monitored and supervised by the identified community worker's employing community services provider agency.

(e) **Quality assurance.** Quality assurance procedures in the provision of health-related services are detailed in this subsection.

(1) The DDS registered nurse's (RN) health review provides monitoring to determine if the health and comfort needs of a service recipient are met in accordance with the service recipient's identified health concerns. The DDS RN health review identifies problems and makes recommendations to the provider agency and the case manager for appropriate action, including the problem resolution process described in OAC 340:100-3-27, if necessary.

(2) DDS Quality Assurance staff monitor services in accordance with OAC 340:100-3-27.

340:100-5-29. Monitoring for dyskinesia

(a) **Scope and applicability.** Developmental Disabilities Services Division (DDSD) provides a standardized system to regularly and systematically assess, evaluate, and inform those service recipients who are at risk for dyskinesia including tardive dyskinesia (TD). Monitoring for dyskinesia applies to all service recipients who receive classes of medication identified in this Section. Providers of residential services funded by the Oklahoma Department of Human Services (OKDHS) DDSD or the Oklahoma Health Care Authority (OHCA) have the primary responsibility for implementation of the rules in this Section. Providers of other types of supports inform service recipients and encourage the implementation of the rules in this Section. Providers are required to meet standards as outlined in OAC 340:100-3-27.

(1) Service recipients prescribed amoxapine, metoclopramide, neuroleptic or other medications known to cause side effects which include dyskinesia are regularly and systematically assessed and evaluated for dyskinesia. Service recipients identified with dyskinesia are referred for further evaluation to diagnose the type of dyskinesia. Service recipients having dyskinesia, including TD are regularly and systematically assessed and evaluated in regard to the status of the dyskinesia.

(2) Service recipients who have been properly diagnosed by a physician as having a dyskinesia, including TD, or parent of a minor, or the legal guardian are informed of the presence of dyskinesia, including TD.

(3) Service recipients prescribed any medications listed in paragraph (1) of this subsection, or parent of a minor, or the legal guardian are regularly informed about the risk of TD.

(b) **Assessment requirements.** Assessments are completed by a trained rater. OKDHS Form DDS-68, The Dyskinesia Identification Scale Condensed User Scale (DISCUS), is the preferred assessment scale. In the absence of trained raters for the DISCUS, the Abnormal Involuntary Movement Scale (AIMS) may be used. DDSD trains staff identified by agency providers to be raters on the use of the DISCUS at no charge to the provider agency. The identified staff may be contract staff or employees of the provider agency. In the event DDSD is needed to train raters, the provider agency notifies the DDSD area manager in a timely manner.

(1) Raters are trained on the use of the DISCUS before service recipients are assessed.

(2) OKDHS Form DDS-68 is used for the assessment following the instructions on the Instructions section of the form.

(3) The rater obtains the prerequisite information about neuroleptic medication, amoxapine, or metoclopramide exposure.

(4) The rater completes the DISCUS Assessment section of OKDHS Form DDS-68.

(5) The service recipient's physician completes the Evaluation section of the assessment.

(6) The completed OKDHS Form DDS-68 is filed in the service recipient's medical record.

(c) **Service recipients not requiring assessments.** Service recipients not currently on neuroleptics with no history of medication exposure do not require a DISCUS rating.

(d) **Service recipients requiring assessments.**

(1) Service recipients whose history of medication exposure is unknown or uncertain receive an initial rating.

(A) When the initial rating is negative, a total score below 5 on the DISCUS assessment for dyskinesia, further assessments are not needed.

(B) If the initial rating is positive, a total score of 5 or more on the DISCUS assessment for dyskinesia, the items listed in (i) through (ii) of this subparagraph must be performed.

(i) A physician's evaluation and, if indicated, further referral is done to confirm the type of dyskinesia.

(ii) The assessment is repeated every six months until the assessment is negative. The assessment is repeated one month after a negative assessment, and if negative again, further assessments are not needed.

(2) Service recipients who are to be placed on medication which may cause dyskinesia are assessed before medication is started or within 30 days of the treatment being identified.

(A) Service recipients are then routinely assessed every six months while on medication.

(B) Assessments may be done quarterly or more frequently if medications are changed or side effects are suspected or identified.

(3) Service recipients who are currently receiving medication which may cause dyskinesia are assessed within 30 days of the treatment being identified.

(A) Service recipients are then routinely assessed every six months while on medication.

(B) Assessments may be done quarterly or more frequently if medications are changed or side effects are suspected or identified.

(4) Service recipients who are receiving treatment for dyskinesia are assessed as in paragraph (2) of this subsection.

(5) Service recipients who have had medications which may cause dyskinesia discontinued are assessed monthly until two consecutive ratings are negative, and then further assessments are not needed.

(A) After four months of positive ratings, the monthly assessments are stopped, and the assessments are repeated every six months.

(B) If a negative rating occurs, reassess monthly until two negative ratings occur.

(C) After two negative ratings the DISCUS screening is discontinued.

(6) For service recipients who have medications, which may cause dyskinesia introduced again, the steps in paragraph (2) of this subsection are followed.

(e) Requirements in the event of TD diagnosis.

(1) The diagnosis of TD is entered on the appropriate medical and informational sheets by the prescribing or diagnosing physician.

(2) The TD diagnosis is conveyed in writing to the service recipient, parent of a minor, or the legal guardian as soon as possible, but within one month of diagnosis. This is documented in the service recipient's record.

(3) If the service recipient is prescribed any medication described in paragraph (a)(1) of this Section, the physician determines if a gradual reduction or discontinuation of the medication is possible. If the physician determines such medication continues to be required, the specific need for, and evidence of, effectiveness is documented. This decision should be reached in conjunction with the service recipient, parent of a minor, or the legal guardian and the service recipient's Team. The lowest effective dose to control the behavioral or psychiatric condition of concern or TD should be

used.

(4) If it is determined any medication described in paragraph (a)(1) of this Section continues to be necessary, a written informed consent for such use in light of the TD is obtained from the service recipient, parent of a minor, or the legal guardian as soon as possible, but within one month. It is recognized that a case might arise in which a service recipient is his or her own legally authorized representative and the physician determines that the TD diagnosis information is contraindicated by the service recipient's behavioral or psychiatric condition. In such a case, the provisions of paragraph (f)(5) of this Section apply.

(f) **TD information.**

(1) Information about TD is provided, in lay person's language, in writing to the service recipient, parent of a minor, or the legal guardian:

(A) before the nonemergency initiation of medications described in paragraph (a)(1) of this Section;

(B) as soon as possible, but within one month of the emergency initiation of medications described in paragraph (a)(1) of this Section; and

(C) at least annually if medications described in paragraph (a)(1) of this Section continue to be prescribed. This may be coordinated with the annual review or consent renewal process.

(2) The Tardive Dyskinesia Information Sheet, OKDHS Appendix D-28, is one of the documents used for written information being conveyed to the service recipient, parent of a minor, or the legal guardian.

(3) Specific documentation is placed in the service recipient's record stating what oral and written information was provided.

(4) Some service recipients currently receiving medications described in paragraph (a)(1) of this Section may not have been informed about TD. Such service recipients, parents of a minor, or the legal guardian are conveyed TD information as developed in paragraphs (1) through (3) of this subsection.

(5) Cases may arise in which a service recipient is his or her own legally authorized representative, and the physician in conjunction with the service recipient's Personal Support Team (Team) determines that giving the service recipient TD information is contraindicated by the service recipient's psychiatric or behavioral condition.

(A) In these cases the information may be withheld from the service recipient for up to three months. The specific reasons are documented in the service recipient's record.

(B) If at the end of three months the service recipient is still not able to be informed, the case is brought to the attention of the resource center director or DDSD area manager for determination as to the family involvement, Human Rights Committee (HRC) review, or adjudicatory review to determine whether the information about TD is to continue being withheld from the service recipient.

(g) **Additional requirements.** Any additional procedures or protocols which are developed to accomplish the rules of monitoring for TD must be approved before implementation by the DDSD medical director.

340:100-5-52. The Personal Support Team (Team)

(a) The Personal Support Team (Team) is composed of people selected by the service recipient who know and work with the service recipient or whose participation is necessary to achieve the outcomes desired by the service recipient.

(1) To respect the dignity and privacy of the service recipient, the Team is no larger than is necessary to plan for and implement the services needed to achieve the service recipient's desired outcomes. The Team is large enough to possess the expertise and capacity necessary to address the service recipient's needs, but not so large as to intimidate the service recipient or to stifle participation on the part of the service recipient or his or her representatives.

(2) At its core, the Team includes the service recipient, his or her case manager, the legal guardian, and advocate(s), if there is one, who may be a parent, a family member, a friend, or another who knows the service recipient well. The service recipient is assured the opportunity to select an individual to serve as an advocate.

(3) Depending on the needs of the service recipient and the issues to be addressed, the Team may include others. The selection of these additional Team members reflects the choices of the service recipient.

(b) The role of the Team is explained in this subsection.

(1) Team members implement responsibilities identified in the Individual Plan (Plan) or in the Oklahoma Department of Human Services (OKDHS) or Oklahoma Health Care Authority (OHCA) rules. Implementation of the Plan may only be delegated to persons who are appropriately qualified and trained.

(2) The Team reviews and approves strategies, plans, and guidelines developed to implement services or supports.

(3) The Team implements the Plan upon approval of the Plan of Care.

(4) A copy of the Plan is maintained in accordance with OAC 340:100-3-40. All staff implementing the Plan must be knowledgeable about its contents and have access to a copy of the Plan.

(5) Each Team member responsible for services identified in the Plan sends a monthly summary of progress on assigned outcomes and action steps to the case manager by the tenth of each month, unless an alternative schedule is specified in the Plan.

(c) The role of the case manager is detailed in this paragraph.

(1) Prior to the initial and each annual Team meeting, the case manager meets with the service recipient and the service recipient's advocate or legal guardian, if there is one, to review the individual situation, including the service recipient's desired vision and progress in attaining the vision. Among the questions explored are whether the service recipient is satisfied with the results of the Plan and whether outcomes need to be revised based on the progress achieved or on changing circumstances in the service recipient's life. This review provides a clear agenda for the Team meeting and assures the service recipient's input and participation.

(2) The case manager identifies available service providers for selection by the service recipient or legal guardian.

(3) The case manager ensures that the size and composition of the Team support the person-centered planning process.

(A) The case manager plans for the participation of people whom the service recipient desires to have on the Team, people whose services are needed to achieve identified outcomes, and people who know the service recipient best. The case manager sends written notice of the annual meeting to all Team members at least two weeks in advance. ■ 1

(B) Planning may occur in Team meetings or through individual or small group consultation according to the desires and needs of the service recipient.

(C) The case manager notifies a Team member by letter that his or her services on the Team are no longer required:

(i) at the request of the service recipient or the legal guardian; or

(ii) if the performance of the Team member reveals a course of action that:

(I) is not in the best interest of the service recipient;

(II) is destructive towards the collaborative process of the Team; or

(III) violates OKDHS or OHCA rules or accepted standards of professional practice.

(4) Unless the service recipient elects to chair his or her own meetings, the case manager serves as chair of the Team.

- (5) The case manager empowers and supports the service recipient in setting the direction for the Team and in actively participating in Team meetings.
- (6) The case manager writes or revises the Plan based on input from the Team.
- (7) The case manager assists the Team in developing strategies, plans, and guidelines to achieve the outcomes desired or needed by the service recipient.
- (8) The case manager monitors all aspects of the Plan's implementation. Each month, contact notes reflect the case manager's review of the progress of each service recipient.
- (9) The case manager routinely asks the service recipient and his or her family, guardian, or advocate about their satisfaction with services and supports, and initiates appropriate action to identify and resolve barriers to consumer satisfaction.
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- (10) The case manager convenes Team meetings as needed.
- (A) The Team, as needed, evaluates whether the Plan and its components are meeting the objectives of the service recipient.
- (B) The case manager convenes a Team meeting, when needed, at the request of any Team member.
- (11) Case manager responsibilities are carried out by service agency program coordination staff if the service recipient does not receive Developmental Disabilities Services Division (DDSD) case management services. Each person filling this role in a provider agency must have a minimum of four years of any combination of college level education and full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDSD director or designee.

INSTRUCTIONS TO STAFF

1. **If a key person cannot attend the meeting, the case manager secures written or verbal input from that person prior to the meeting.**
2. **Since the absence of a complaint does not necessarily imply satisfaction, the case manager initiates action to resolve barriers when:**
 - (1) **progress towards identified outcomes is not occurring; and**

(2) the person's identified preferences are not addressed or met.