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DIVISION CIRCULAR #8
(N.J.A.C. 10:46C)

DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES

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(Rescinds and replaces DC #8 "Community Care Waiver Waiting List Procedures" effective September 17, 2012)

- I. **TITLE:** COMMUNITY CARE PROGRAM WAITING LIST PROCEDURES
- II. **PURPOSE:** To establish the Division's practices concerning the management of its waiting list for Community Care Program services.
- III. **SCOPE:** This circular applies to all Division components.
- V. **GENERAL STANDARDS:**

Note: The remainder of this circular is the waiting list rules, which appear at N.J.A.C. 10:46C.



Jonathan Seifried
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SUBCHAPTER 1 GENERAL PROVISIONS

10:46C-1.1 Purpose

- (a) This chapter establishes criteria and procedures for allocating limited community-based services, based on the relative needs of the individuals waiting for Division services. In accordance with the Developmentally Disabled Rights Act, N.J.S.A. 30:6D-1 et seq., such services shall be designed to maximize the developmental potential of the individual in a manner least restrictive of personal liberty.
- (b) The availability of such services shall be limited to the Division's funding in a given fiscal year. The basis of this chapter is to establish a means to prioritize service needs when there are insufficient funds, in order to provide the most appropriate services. The chapter represents an administrative process for the allocation of scarce resources among many individuals with similar needs and circumstances.
- (c) The waiting list assignment shall indicate only the need for services. The assignment shall not reflect the specific type of services needed. The individual's need for services changes over the course of the individual's life. The intent of this chapter is not to establish specific services to be provided, but to reflect only a general service need. Waiting list categories are general groupings based upon the level of priority. The date that the individual is assigned to the waiting list category shall be recorded.

10:46C-1.2 Scope

This chapter shall apply to all individuals who are currently on the Community Care Program (CCP) Waiting List for CCP community-based services, or eligible individuals who may request such services in the future. Unless otherwise stated, this chapter does not apply to similar services that may be provided through the Supports Program.

10:46C-1.3 Definitions

The words and terms in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Abuse" means wrongfully inflicting, or allowing to be inflicted, physical, sexual, verbal, or psychological abuse or mistreatment upon an individual with a developmental disability.

"Caregiver" means an individual who is not a parent of an eligible person including, but not limited to, a spouse, child, sibling, grandparent, step-family member, aunt, uncle, cousin, or legal guardian who, without monetary payment, cares for the eligible individual in the individual's home.

"Case management" means Division staff responsible for coordination of services across family, agency, and professional lines to develop and attain goals and objectives embodied

in an individual's service plan. It involves monitoring of, and advocating for, the individual's needs with individual and family participation.

"Community Care Program" or "CCP" means a Division initiative, included in the Comprehensive Medicaid Waiver authorized by the Centers for Medicare and Medicaid Services under section 1115 of the Social Security Act, that funds community-based services and supports for adults with intellectual and developmental disabilities who meet the level of care for an Intermediate Care Facility for Individuals with Intellectual Disabilities.

"Division" or "DDD" means the Division of Developmental Disabilities in the Department of Human Services.

"Emergency" means an event in which an individual who is eligible for Division services is homeless or in imminent peril, as defined in N.J.A.C. 10:46B.

"Exploitation" means the act or process of using an individual with a developmental disability or the individual's resources for another person's profit or advantage.

"Individualized service plan" or "ISP" means a standardized service planning document developed based on an individual's assessed needs that identifies an individual's outcomes and describes the services needed to assist the individual in attaining the outcomes identified in the plan. An approved ISP authorizes the provision of services and supports.

"Interdisciplinary team" or "IDT" means an individually constituted group responsible for the development of a single, integrated service plan. The team shall consist of the individual receiving services, the individual's parent or family member (if the adult desires that the parent or family member be present), legal guardian, those persons who work most directly with the individual served, and professionals and representatives of service areas relevant to the identification of the individual's needs and the design and evaluation of programs to meet those needs.

"Legal guardian" means a person or agency appointed by a court of competent jurisdiction to make decisions on behalf of an individual determined by the court to lack decision-making capacity in certain areas as set forth at N.J.S.A. 3B:12-24.1 .

"Medical needs" means the individual has a documented chronic or acute medical condition, which requires regular care to be provided to the individual.

"Neglect" means any of the following acts on an individual with a developmental disability:

1. Willfully failing to provide proper and sufficient food, clothing, maintenance, medical care, or a clean and proper home; or
2. Failure to do, or permit to be done, any act necessary for the well-being of an individual with a developmental disability.

“Qualified provider” means a service provider who has met all qualifications for providing Division services through the CCP.

"Support coordinator" means the professional responsible for developing and maintaining the individualized service plan with the individual, his or her family, as applicable, and other interdisciplinary team members; linking the individual to needed services; and monitoring the provision of services included in the individualized service plan.

"Supports program" or "SP" means a Division initiative, included in the Comprehensive Medicaid Waiver authorized by the Centers for Medicare and Medicaid Services under section 1115 of the Social Security Act, that funds community-based services and supports for adults with intellectual and developmental disabilities.

"Waiting list" means a roster of individuals who are eligible for functional services from the Division and who have expressed a general service need.

"Waiting list coordinator" means a Division staff member who maintains and amends the waiver waiting list.

"Waiver review team" or "WRT" means a group of five members responsible for the review of requests for assignment to the Priority Waiting List category. At least one member of the group shall be an advocate or family member of an individual with a developmental disability, except where an advocate or family member cannot be readily identified or is unavailable to participate. If there is no readily available advocate or family member, the WRT shall operate without them.

SUBCHAPTER 2 WAITING LIST PROCEDURES

10:46C-2.1 Waiting list categories

- (a) At the time of eligibility for Division services, the applicant shall be informed of the CCP waiting list.
- (b) The waiting list system shall consist of two categories: Priority Waiting List and General Waiting List.
 - 1. The waiting list category shall be specified at the time the individual is found eligible for functional services if the individual or legal guardian requests waiting list assignment at the time of application for services.
 - 2. If the individual does not request waiting list assignment at the time the individual is found eligible for functional services, the individual, legal guardian, parent, or caregiver may request an assignment, in writing, or by alternate means used by the individual to communicate, at any time.

- (c) The Division shall provide individuals on the Priority Waiting List with their numerical place on the waiting list annually.

10:46C-2.2 Procedure for adding an individual to a waiting list or changing the individual's waiting list category

- (a) Satisfaction of one or more of the following criteria is required for assignment to the Priority Waiting List:
 - 1. Both of the birth or adoptive parents are 55 years or older. When both parents or adoptive parents reach age 55, they shall be given the option to have the individual placed on the Priority Waiting List at the time of the annual ISP. In this instance, the date that the younger parent turns 55 shall be the date the individual is added to the Priority Waiting List. In situations where both parents are alive, but only one is the primary caregiver, it is only required that the parent who acts as the primary caregiver reach age 55 to have the option to have the individual placed on the Priority Waiting List at the time of the annual ISP;
 - 2. An individual living with a caregiver, other than the birth or adoptive parents, who is providing care voluntarily and without pay and the caregiver can no longer care for the individual;
 - 3. There is a clear risk of abuse, neglect, or exploitation;
 - 4. Either of the birth or adoptive parents is under age 55 and has a chronic and long-term physical or psychiatric and/or behavioral health condition or conditions, which significantly limits the birth or adoptive parents' ability to care for the individual with a developmental disability; or
 - 5. Either of the birth or adoptive parents is under age 55 and there is a risk to the health or safety of the individual, parent, or other individual living in the home due to any one of the following conditions:
 - i. The individual's behavior or behaviors present a risk to self or others, which cannot be effectively managed by the parents, even with generic or specialized support arranged or provided by the Division;
 - ii. There are physical care needs, such as lifting or bathing, or medical needs that cannot be managed by the parent, even with generic or specialized supports arranged or provided by the Division;

- iii. There is a single parent as the head of household who requires a minimum of 40 hours of specialized or generic supports from the Division, each month, in order to keep a full-time job; or
 - iv. There is a single parent as the head of household who is the primary caregiver to more than one person with a disability and those persons have significant direct care needs (for example, feeding, bathing, toileting, etc.).
- (b) Assignment to the General Waiting List shall be made by the Division when requested by an individual, legal guardian, parent, or caregiver, or if the individual does not meet the criteria for assignment to the Priority Waiting List.
- (c) The individual, legal guardian, parent, or caregiver may request a reassessment of the waiting list assignment at any time. Requests for changes in the waiting list category shall be made in writing, or by alternate means used by the individual to communicate. If the request is approved, the change shall be made effective as of the date of the written request or request by alternate means.
 - 1. The following types of requests for changes to the individual's waiting list category shall be processed by the Division waiting list coordinators and will not require a Waiver Review Team meeting:
 - i. Requests for the Priority Waiting List, under the following circumstances:
 - (1) Both birth or adoptive parents are over the age of 55 or the birth or adoptive parent, with whom the individual resides, is over the age of 55. In this instance, the date that the younger parent or the parent with whom the individual resides turns age 55 shall be the date the individual is added to the Priority Waiting List. If the date the parent turns 55 predates eligibility for functional Division services, the individual's effective date on the Priority Waiting List shall be the date of Division eligibility; or
 - (2) An individual living with a person other than the birth or adoptive parents, who is providing care voluntarily and without pay and the caregiver can no longer provide care for the individual. The effective date of the addition to the Priority Waiting List will be the date of the written request, or request by alternate means used by the individual to communicate; and
 - ii. Requests to be added to the General Waiting List.

- (d) All requests to be added to the Priority Waiting List, under (a) above or to change from the General Waiting List to the Priority Waiting List, other than those in (c)1 above will be processed through the WRT. The WRT shall be responsible to review the information in order to determine if the criteria for assignment to the Priority Waiting List are met. The WRT shall meet no less than monthly and shall have at least three members present to conduct business.
- (e) Case management or the support coordinator, as applicable, shall provide all relevant information to the WRT. The WRT may request additional information and may request that a case manager or support coordinator visit the home.
- (f) Case management or the support coordinator, as applicable, will inform the individual, legal guardian, parent, or caregiver that he or she has the option to attend the initial WRT meeting.
 - 1. If the WRT agrees that the request meets all criteria as stated in (a) above, the effective date of the addition to the Priority Waiting List will be the date of the written request, or request by alternate means used by the individual to communicate.
 - 2. If the WRT feels further information is needed to determine if an individual may be added to the Priority Waiting List, case management or the support coordinator, as applicable, will obtain this information from the person making the request to add an individual to the Priority Waiting List in writing, or by alternate means used by the individual to communicate. Once received, the new information will be presented to the WRT. If, after the second review, the WRT agrees that the request meets all criteria as stated in (a) above, the effective date of the addition to the Priority Waiting List will be the date of the original written request, or request by alternate means used by the individual to communicate.
- (g) If the WRT determines that, based on the information provided, the request does not meet the criteria in (a) above, the requestor will be invited to the next available WRT to present their case. A decision on the request will be deferred pending the final presentation to the WRT.
- (h) No Priority Waiting List request shall be denied without the individual, legal guardian, parent, or caregiver being invited to present their views to the WRT. If the individual or legal guardian chooses not to attend the WRT meeting, the WRT may make a final determination based on the available information.
- (i) At the next available WRT, the individual, legal guardian, parent, caregiver, case manager or support coordinator, and invited family may make a presentation, verbal or written, regarding the individual's particular situation. The case manager or support coordinator shall document and present prior actions implemented to stabilize the individual in the individual's current situation. The individual, legal

guardian, parent, or caregiver shall leave the meeting once they have presented their views. The WRT shall provide participants at the meeting alternate means of communication, as necessary.

- (j) Following the WRT meeting, the WRT coordinator will inform the individual or legal guardian of whether the request meets the criteria stated in (a) above.
 - 1. If the request is denied, the individual, legal guardian, parent, or caregiver will be notified, by letter describing the specific reasons for denial, within 30 days. If the individual, legal guardian, parent, or caregiver chose not to attend the WRT meeting, it shall be documented in the notification letter and the individual will remain on the General Waiting List with their original date. Individuals who are not on the General Waiting List will be added to the General Waiting List, effective the date of the written request, or request by alternate means used by the individual to communicate.
 - 2. If the request meets the criteria in (a) above, the effective date of the addition to the Priority Waiting List will be the date of the original written request, or request by alternate means used by the individual to communicate.

10:46C-2.3 Initial notification that an individual has been reached on the Priority Waiting List for Community Care Program Services

- (a) When an individual is reached chronologically on the Priority Waiting List, the Division shall notify the individual or legal guardian in writing, or by alternate means used by the individual to communicate. In addition, the Division will contact the individual or legal guardian to further explain the process and discuss CCP and SP services and options.
 - 1. An individual must meet the level of care (LOC) requirements for an Intermediate Care Facility for Individuals with Intellectual Disabilities to be eligible to enroll in the CCP. Individuals who do not meet the LOC requirements will receive services through enrollment in the SP.
 - 2. Case management or the support coordinator, as applicable, will coordinate the development of a new individualized service plan, if needed.
- (b) In the event that two or more individuals have the same assignment date to the Priority Waiting List:
 - 1. The first criterion used to break the tie will be the initial date of assignment to the General Waiting List.

2. If more than one individual has the same original date of assignment to the General Waiting List, the second criterion used to break the tie will be the date of eligibility for functional services.
- (c) Upon being reached on the Priority Waiting List, the individual or legal guardian shall be responsible for applying for all benefits for which the individual is entitled, in compliance with the provisions of N.J.A.C. 10:46, prior to receiving services from the Division. Application for benefits includes, but is not limited to, applying for the Medicaid DDD Community Care Program (CCP) and Social Security and Supplemental Security Income (SSI).
1. If the individual is determined to be ineligible for the Community Care Program, the individual shall be removed from the Priority Waiting List and shall be ineligible to receive services the Division provides through the CCP.
 - i. The individual shall remain eligible to receive those services the Division provides through the Supports Program, subject to annual appropriations.
 2. If the individual is able to establish eligibility for the Community Care Program within six months of the date he or she was determined ineligible, the individual shall be placed back on the Priority Waiting List with his or her original date of assignment to the Priority Waiting List.
 3. If the individual is unable to establish CCP eligibility within six months, the individual shall be removed from the Priority Waiting List and may apply to the WRT for a new assignment to the Priority Waiting List, pursuant to N.J.A.C. 10:46C-2.2.
- (d) In order for the Division to enroll an individual in the CCP, the Division must have funding available to provide waiver services for the individual and the individual must be eligible for functional services in accordance with the provisions of N.J.A.C. 10:46.
- (e) When an individual is reached chronologically on the Priority Waiting List and accepts an offer of services, the individual or legal guardian must complete the CCP application, submit all required documentation, and participate in the development of an individualized service plan before services begin.

10:46C-2.4 Removal from the Priority Waiting List

- (a) When an individual begins receiving CCP services and has complied with the Division's requirement of applying for the CCP and meeting all requirements of eligibility for those benefits, the individual's name shall be removed from the Priority Waiting List.

- (b) If, upon being reached on the Priority Waiting List, an individual or legal guardian refuses any and all offers for CCP services, the individual's name shall be removed from the Priority Waiting List. The Division shall provide written notification, or notification by alternate means used by the individual to communicate, of the removal from the Priority Waiting List to the individual.
- (c) If, upon being reached on the Priority Waiting List, the individual or legal guardian refuses to apply for the CCP or is found ineligible for the CCP, the individual's name shall be removed from the Priority Waiting List. The Division shall provide written notification, or notification by alternate means used by the individual to communicate, of the removal from the Priority Waiting List to the individual. In the case of CCP ineligibility, N.J.A.C. 10:46C-2.3(c) shall apply.
- (d) If, upon being reached on the Priority Waiting List, the individual does not elect to enroll in the CCP, or is not otherwise eligible for CCP services, the Division will offer the individual the option to elect enrollment in the Supports Program, if the individual is not already enrolled in SP, and the individual's name shall be removed from the Priority Waiting List. The Division shall provide the individual, or his or her guardian, with written notification or notification by alternate means used by the individual to communicate, of the individual's removal from the Priority Waiting List.
- (e) An otherwise eligible individual who has been removed from the Priority Waiting List may obtain access to CCP services in the future, if emergency criteria are present.

10:46C-2.5 Emergencies

- (a) Emergencies shall be handled in accordance with N.J.A.C. 10:46B.
- (b) When the Division determines that an emergency exists, the individual shall be administratively placed at the top of the Priority Waiting List.

10:46C-2.6 Appeals

- (a) If the individual or legal guardian disagrees with the CCP waiting list categorization or the services offered, that decision may be appealed in accordance with N.J.A.C. 10:48.
- (b) Upon the initial determination and each determination made thereafter, the individual or legal guardian shall be informed, in writing, or by alternate means used by the individual to communicate, that he or she has the right to appeal the categorization or the appropriateness of the services to be provided. With each notification, the individual or legal guardian shall be provided with a description of the appeals procedure.