



Ohio Department of Mental Retardation and Developmental Disabilities

Bob Taft, Governor

Kenneth W. Ritchey, Director



Information Notice 06-11-04

To: Superintendents, County Boards of MR/DD
Directors of Service and Support Administration

Directors, Councils of Governments
Licensed and Certified Providers

From: Dana Charlton, Deputy Director
Division of Community Services

A handwritten signature in black ink that reads "Dana Charlton".

Date: November 6, 2006

Re: **Responsibilities Regarding Service Planning, Development and Implementation for Individuals Living in a Licensed Facility**

The SSA rule, 5123:2-1-11, effective 7/1/05, identifies, among other things, the responsibilities of the SSA related to the development and implementation of an individual service plan (ISP). Reviews of providers, particularly licensed providers, over the past year have identified areas of misunderstanding or raised questions about the responsibilities of service plan development and implementation. The purpose of this communication is to clarify the roles and responsibilities for the development and implementation of individual service plans (ISP) when the individual lives in an ICF/MR or other licensed facility. An additional purpose is to inform county boards and providers how the department intends to address any findings it identifies related to these requirements as a result of a licensure review.

BACKGROUND

In an ICF/MR, the QMRP is the person responsible, per Federal regulations, for all aspects of ISP planning, development and implementation, regardless of where the services are provided. Any licensure findings related to the ISP of an individual living in an ICF/MR are directed to the

ICF/MR for response and remediation. In an ICF/MR, an individual is eligible for service and support administration related to moving the individual from the ICF/MR to a non-ICF/MR setting. 5123:2-1-11(D)(1)(c). Prior to 5123:2-1-11, in a non-ICF/MR licensed facility the licensed provider (who is also a waiver provider) has been responsible for all aspects of the ISP process as outlined in licensure rule 5123:2-3-17 including:

- arranging and/or conducting assessments;
- writing the ISP and holding ISP meetings;
- obtaining consent from the individual/guardian to implement the ISP;
- implementing the ISP;
- documenting service delivery;
- conducting quarterly reviews of ISPs and making revisions as appropriate.

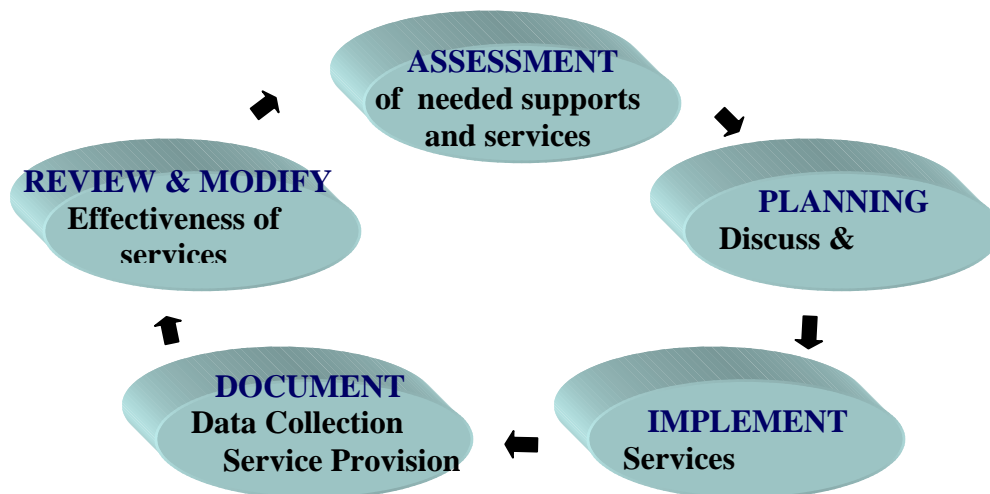
The current licensure rule does not distinguish the above-named ISP process responsibilities between an ICF/MR and a non-ICF/MR. It also does not recognize the role of the Service and Support Administrator (SSA) in the service planning process in a non-ICF/MR licensed facility since the licensure rule pre-dates the creation of an SSA and the SSA rule. As a result, there have been some questions and issues regarding how the requirements of the SSA rule interface with the requirements of the licensure rule.

The following is an analysis of the relevant rules in relation to the roles and responsibilities of the SSA and the licensed provider related to the ISP process. While the following illustration is applicable to any service planning process, for the purpose of this notice, it is being applied only to non-ICF/MR licensed facilities.

Responsibilities of a SSA and Provider for Individuals residing in a Non-ICF/MR Facility, Licensed by ODMRDD

The ISP is not simply an “event” that occurs on an annual basis when a number of people get together to write or review an ISP. It is a dynamic and ongoing process that can be illustrated in the following way:

SERVICE PLAN CYCLE



Assessments – The SSA is responsible to ensure the completion of assessments, initially and at least annually thereafter, that address the individual’s likes, dislikes, priorities, desired outcomes, skill development and health, safety and welfare needs, as applicable. Some assessments, done by licensed or certified professionals, may not be required annually, but shall be done when so dictated by the needs of the individual. (5123:2-1-11(G)(1)(a); 5123:2-1-11(I).

There are no prescribed type or number of assessments that need to be completed. The SSA should be familiar enough with the individual to recognize when certain assessments are indicated. For example, the ODMRDD has developed the “Every Healthy Person” initiative that can be used by SSAs to assist in determining and assessing when health issues should be addressed.

(Information about about “*Every Healthy Person*” can be found at <http://odmrdd.state.oh.us/health/wellness.htm>)

It provides comprehensive information regarding the importance of periodic health screenings and preventative healthcare for persons with developmental disabilities. The types of medical assessments needed for an individual would depend upon, among other things, the individual’s age, sex, family, program, behavioral and medical history.

The SSA should be prepared to discuss the need for any assessment(s) at the initial ISP or ISP review meeting, relating it to the individual’s desired outcomes and/or the individual’s health, safety and/or welfare. If agreed to by the individual, the need to have the assessment conducted is included in the ISP, with timelines and other parameters outlined.

Arranging for the transportation of an individual to an assessment should be identified as a specific service on the ISP. It should not be assumed that a provider will do this as a part of another service, such as Homemaker/Personal Care.

Planning - The ISP is to be developed by the SSA (5123:2-1-11(J) and should indicate the provider of services and the frequency of each of the services to be provided by the selected provider(s). The ISP and any revisions shall occur with the active participation of the individuals and other persons selected by the individual, and when applicable, the provider(s) selected by the individual. The planning and ISP shall focus on the individual’s strengths, interests, talents, and desire for increasing skills or outcomes. The ISP shall assist the individual to engage in meaningful, productive activities and to develop community connections. Additionally, the ISP shall integrate all sources of support available to meet the needs and desired outcomes of the individual. The SSA is responsible to obtain all appropriate consents.

Implementation - Once a provider is selected by the individual and agrees to provide the services identified on the ISP, the provider is responsible to provide the services as outlined in the plan (5123:2-3-17(F); 5123:2-13-04 (D)(13)(a) and (F)(14)(a).

Documentation – In addition to providing the services as per the ISP, the provider is required to document the services in accordance with 5123:2-9-05.

NOTE: While this rule was effective September 30, 2005, the department has not incorporated all the requirements of this rule into its review processes in order to allow private providers and county boards ample time to become familiar with and comply with the rule's requirements. The department will begin to incorporate all the requirements of this rule into its various review processes effective January 1, 2007; meaning that provider documentation beginning January 1, 2007 will need to reflect all the requirements in 5123:2-9-05, with the following exception: Documentation of group size 5123:2-9-05 (B)(10) will not apply to IO and Level One waiver enrollees until their providers for that waiver service are reimbursed under 5123:2-9-06, the new waiver reimbursement system.

Entities with the authority to review documentation are identified in 5123:2-9-05 as CMS, ODJFS, ODMRDD, County Boards and COGS.

Review and Modify – The SSA is responsible to monitor the implementation of the ISP and to periodically review and revise the ISP as needed. (5123:2-1-11(J)(3) and (N). Monitoring shall be on an on-going basis and shall verify:

- The health, safety and welfare of the individual
- Consistent implementation of services
- Achievement of the desired outcomes for the individual
- That services received are those reflected in the ISP

Monitoring the ISP implementation may include, but is not limited to:

- Regular contact with the individual/guardian and other persons involved in the individual's life, including home visits and other places where the individual receives services. (i.e. day habilitation)
- Review of MUIs and/or UIs
- Regular contact/discussions with the service provider(s)
- Review of service documentation
- Contacts/follow-ups regarding assessments and evaluations

The service provider is responsible to recognize changes in the individual's condition, behavior or other factors that could impact the health, safety and/or welfare of the individual, and report them to the SSA (5123:2-13-04(B)(4)(c)). The SSA then reviews the documentation and ISP to determine if additional and/or updated assessments or services are needed in order to appropriately revise the ISP.

The Issue

In conducting licensure reviews, situations have come up where the licensee cannot provide information to confirm that one or more aspects of the ISP process have been appropriately implemented and/or revised. Two examples follow:

1. An assessment of an individual indicates the need for a behavior support plan (bsp), however, no bsp has been developed.
2. In reviewing MUIs and UIs, the department reviewer finds that an individual has had several seizures over the past 3 months and the individual has no prior history of seizures. There is no indication that any medical follow-up has occurred

Prior to the SSA rule, the licensed provider would have been held accountable for not providing the indicated follow-up for these two examples. Under 5123:2-1-11, however, the responsibility for the two examples above would be attributed as follows:

1. 5123:2-1-11(J)(1)(b) states that the SSA is to "ensure (emphasis added) the development or revision of the ISP that addresses the results of the assessment process.... " In this situation there is an assessment that indicates a need for a bsp. The SSA must ensure the ISP addresses the needs identified in the assessment (namely a bsp). The SSA can accomplish this by:
 - Working with county board staff or other behavior specialist to design the behavior support plan (bsp) and incorporate it into the ISP, identifying how the bsp will be implemented and by whom. The provider would then be required to implement the bsp as written, providing the appropriate documentation.
 - If qualified, the SSA can develop the bsp and incorporate it into the ISP.
 - If qualified, and agreed to, the provider can develop the bsp. If this is the case the ISP should be revised to reflect this as a service of the provider, including all appropriate information. The provider cannot be compelled or assigned to develop the bsp by the SSA. NOTE: Requirements for the development of the bsp can be found in Ohio Administrative Code 5123:2-01-02 (J)

In the second example, the provider is required to complete an MUI or UI and forwards it to the SSA. The provider should also make sure the SSA is aware of the recent changes to the individual's health that could require assessments to be completed to determine the appropriate course of action. Once the SSA is aware of the individual's change in condition, the SSA is responsible to arrange/coordinate any assessments and revise the ISP, as needed to implement the new service.

The focus of a licensure review is to ensure the licensed provider is in compliance with applicable standards. Until recently, the licensee was cited during the course of a licensure review, if situations such as the ones described above were identified, even if the responsibility to take action rested elsewhere. This will no longer be the case.

ODMRDD Action

As of July 1, 2006, the department is no longer citing the licensed provider when it determines the provider did not have a duty, as indicated in the ISP or in accordance with the SSA rule, to act or provide a particular service to an individual.

Effective January 1, 2007, the licensure review of the ISP development, implementation and review process will apply the requirements of the SSA rule. If it is determined that the SSA or the county board did not fulfill its required responsibilities in accordance with the provisions of the SSA rule or any other applicable rule, citation(s) will be issued at the time of the licensure review and a plan of correction will be required from the county board. The citation(s) and plan of correction will become part of the accreditation record for the county board. As with any citation issued by the department, the county board may appeal the citation through the department's administrative appeal process for accreditation of County Boards.

Concurrent with these actions, the department will be revising the licensure IP rule, 5123:2-3-17 to make it consistent with the SSA rule and other applicable requirements.

If you have any questions, please contact Ernie Fischer at (614) 644-5965 or email at Ernie.fischer@dmr.state.oh.usT.

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