



DEPARTMENT OF  
PUBLIC HEALTH AND HUMAN SERVICES

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STATE OF MONTANA

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## Developmental Disabilities Exit Policy Memo

TO: Case Managers, Contracted Case Managers, State Staff, and  
Providers of Services

FROM: Jeff Sturm, Developmental Disabilities Program Director

This memo covers the circumstances in which an individual in Developmental Disabilities Services may be exited from services. This policy is intended to provide direction to providers when an exit is planned. Exiting individuals from services is a serious matter and careful consideration and planning must take place prior to an exit as it may leave an individual without services or in some cases without a residence. In the three circumstances listed below, the third option would be initiated by the Developmental Disabilities Program whereas the first two may be provider initiated.

1. A provider may exit an individual from services because they can not meet their health and safety needs. In the situation where the provider feels they can not meet health and safety needs and the consensus of the IP /PSP team is they can, the IP/PSP appeal process as stated in the IP rule ARM 37.34. 1114 must be followed. Providers exiting an individual from services for health and safety must give ninety (90) days written notice to the individual and all Individual Planning Team members. A plan must be developed and executed as soon as possible but no later than five (5) calendar days. It should be noted that the individual's remaining annual funds remain with them, unless they are exited from the Waiver, (please see section 3). If at the time of the meeting, the decision remains that the individual will be exited from services, the individual must be notified in writing of that intent, the reasons for their termination from services and notified that they have a right to request a Fair Hearing. The Fair Hearing requirements and procedures are found at ARM 37.5.115.

2. A provider may exit an individual from services for failure to follow through with PSP Service Actions & Outcomes or IP Goals for a period of thirty (30) days.

The individual will be given a ninety (90) day exit notice. This notice will be sent to all the Planning Team Members. A planning meeting must be held within ten (10) working days from receipt of the notice. The individual will have the opportunity to re-write their vision and their outcomes, or their IP goals at the time of the meeting. During the ninety (90) day exit period the new actions/outcomes and goals must be implemented and if they are being followed then the exit notice will be null and void and the individual will remain in services with the provider. If it is determined that the exit will take place then the individual must be notified in writing why they are being exited from services, a written notice must detail their right to request a Fair Hearing. These requirements and procedures are found in ARM 37.5.115.

It should be noted that the individual exiting services retains their remaining annual funding, unless they are exited from the Waiver.

3. An individual may be exited from Waiver Services and General Fund Services by the State Developmental Disabilities Program. This must be stated in writing and presented to the individual being exited within five (5) working days for the following reasons:

- The State cannot assure the health and welfare of an individual.
- The individual exhausts all providers in a specific geographic area and chooses to remain in the geographic area. The individual must be advised in writing that their provider options are limited and Waiver Services could expire if there are no other Waiver providers available to provide care.
- Non-Utilization of Services: Non-utilization of services must prompt a planning meeting within ten (10) working days from the 30<sup>th</sup> day of non-utilization of services to determine why the individual is not using the service. The Team must focus on what services the individual desires and whether or not those services are available. If the individual no longer wishes to participate in any Waiver Services then this must be stated in writing and signed by the individual, guardian, or advocate and submitted to the State office within five (5) working days from the date of the planning meeting. If the planning team determines that the individual is not interested in Developmental Disabilities Services due to failure to participate in planning meetings or services, the individual may be exited from Developmental Disabilities Services. The Team must document and justify their decision and request approval of termination from the Regional Manager. The Regional Manager must make a determination within five (5) working days and notify the individual and Team members in writing within five (5) working days from the date of the decision.

## **Fair Hearing Requirements**

Individuals must be afforded the opportunity to request a Fair Hearing in all instances when they:

- Are not provided the choice of Home and Community-based Waiver Services as an alternative to institutional care;
- Are denied the service of their choice or the provider of their choice; or
- Their services are denied, suspended, reduced or terminated.

The various Fair Hearing rules in relation to Montana State Developmental Disabilities Services are memorialized at 37.5.115 ARM. For any adverse actions funded with Medicaid monies there is a specific rule, 37.34.919 ARM governing the provision of a right to a Fair Hearing. An action to exit someone from services is a “denial of services” for which there is clearly a right to Fair Hearing under Administrative rule 37.34.919.