

Suitable Representative Plan

Introduction

In an effort to ensure participants of Idaho Medicaid's Adult Developmental Disabilities (DD) Waiver Program are adequately represented during a Fair Hearing associated with a budget appeal, the Department of Health and Welfare (Department) is developing and implementing a web-based Suitable Representative training process. This training will be available to anyone wishing to provide assistance to Adult DD participants during a budget appeal, but is applicable to any appeal related to the Adult DD Program. Please note: this training is being provided to address the unique needs of Adult DD participants and would not be applicable to other populations served by Medicaid.

A Suitable Representative is any individual chosen by or provided for a participant who agrees to assist them through the Appeal and Fair Hearing process. A participant can also choose to represent themselves. If a participant does not choose someone to assist them, but chooses to represent themselves, they will be considered their own Suitable Representative.

Training Plan

The Department will develop web-based training for individuals wishing to act as Suitable Representatives for participants initiating the appeal process. Training will be available, free of charge, to any individual, including participants, who wish to complete the training. This training is voluntary. A participant may choose to be represented by an individual who does not wish to complete the training. The participant is not required to take the training in order to represent themselves.

This training will be specific to the new resource allocation model the Department anticipates implementing by May 1, 2022. Individuals who received training to act as a Suitable Representative prior to implementation of the new resource allocation model should still complete the new training.

The web-based training will be divided into modules covering various topics, including:

- Overview
- Advocacy Skills
- Participant Rights and Responsibilities
- Assessment Process
- How Eligibility is Determined and Noticed
- How Budgets are Determined and Noticed
- How Service Plans are Developed, Reviewed, and Noticed
- BDDS Appeal Process Overview

- Preparing for a Fair Hearing
- What Happens at a Fair Hearing
- Federal and State Laws and Regulations

Tracking of Trained Suitable Representatives

A knowledge verification component will be available at the end of each module. These verifications will not be scored, but will allow those taking the training to ensure they have a clear understanding of the material. Modules may be repeated at the trainee's discretion to ensure they are comfortable with the material. Once all modules have been completed, the trainee's name will be added to a database maintained by the Department. Individuals that complete the training will be asked if they are willing to represent other participants who may be looking for a Suitable Representative.

If an individual who has completed the training is willing to serve as a Suitable Representative for other participants, that individual will be asked to sign a release allowing the Department to provide their name and contact information to interested participants. Note that acting as a suitable representative will not be a service paid for by the Department. While payment was made available to TSCs and SBs who acted as a suitable representative after completing the training developed and made available under the settlement agreement, in only two (2) circumstances was this provision utilized from February 2019 to July 2021.

Notice of Available Support

The Department issues a Notice of Decision for all decisions made. Each notice that includes an appealable decision will also include information about how to appeal that decision, as well as an appeal request form. Each notice will inform individuals they can represent themselves during the appeal process, hire an attorney to represent them, or have another person of their choice represent or help them with the appeal and fair hearing process. The notice will also provide information regarding Suitable Representatives.

Information about becoming or finding a Suitable Representative may also be obtained by contacting the Department via the established toll free number or email box. A team of trained Department staff will provide information about Suitable Representatives and direct individuals to the training materials.

Choice of Representative

If a participant chooses a representative who has not taken the Suitable Representative training, but who would like more time to complete the training, the participant may waive their right to a speedy appeal hearing to allow time for training to be completed. This would also apply if the participant would like to represent themselves but wishes more time to complete the Suitable Representative training. The participant must complete a Delay Form acknowledging that they are knowingly delaying the processing of their appeal and intend to complete, or have their chosen representative complete, the Suitable Representative training within 45 calendar days.

If a participant chooses a representative that does not wish to complete the web-based training, the participant and the chosen representative will be asked to sign an attestation verifying the participant feels the chosen representative can appropriately represent them in the appeals process without completing the web-based training. This attestation will be kept with the participant's appeal documentation.

Additional Assistance Provided by the Department

- **Informal Review**

When a participant submits a written request for an appeal, a Department Appeal Specialist contacts the participant and/or their representative to notify them the appeal has been received. The Appeals Specialist also notifies the participant of the option to have an informal review completed and details what an informal review will entail.

During an informal review the Appeals Specialist will review all relevant information pertaining to the decision being appealed including, but not limited to: DHW and Independent Assessment Contractor (IAC) maintained records, the original request submitted by the participant, program guidelines, IDAPA guidance, etc. The Appeals Specialist will also request that the participant submit any additional documentation pertinent to the decision they are appealing. Once the informal review is complete, the Appeals Specialist will report their findings to the participant. Possible outcomes of the informal review process include:

- Adjustment to the Department's decision upon the re-review or submission of new information or documentation
- Reversion to the IAC for a new eligibility determination based on updated or expanded information
- Reversion to the Verification Review Team for a new determination based on updated or expanded information
- Further explanation to the participant as to why their request was denied

If the participant finds that the informal review process has addressed their concerns or has resulted in their desired outcome, the Appeals Specialist will offer the participant the opportunity to complete an appeal withdrawal request and the process will be

complete. Currently, approximately 85% of Bureau of Developmental Disability Services (BDDS) appeals are resolved at the informal review phase. If the participant does not agree with the findings of the informal review they may proceed to fair hearing.

- **Toll Free Help Line**

The Department will maintain a toll free hotline. Trained staff will be available to provide information on how to become a Suitable Representative. If a participant requests the assistance of a Suitable Representative, but is unable to locate someone willing to represent them, the Department will work with that participant to identify agency (provider) staff, support staff, family members, friends, or other individuals previously trained as a Suitable Representative who may be able to assist them. If a participant is unable to locate someone to serve as a Suitable Representative, the Department will provide a Department staff member to serve as that participant's Suitable Representative for the appeal.

The Department will also maintain an email box where trained staff will be available to provide information on how to become a Suitable Representative.

- **Posting of Training / Supporting Documentation (MCM / BDDS Webpage)**

Information on how to become a Suitable Representative and how to access Suitable Representative Training, as well as how to potentially locate a trained Suitable Representative, will be maintained on the MyChoiceMatters website (mychoicematters.idaho.gov) and the BDDS webpage.

- **TSC / SB Notification**

Targeted Service Coordinators (TSCs) and Support Brokers (SBs) are often a go-to resource for participants when they have questions about eligibility, budget determinations, or service plan approvals and denials. For this reason, TSCs and SBs will be specifically trained on the availability of support and training for participants and their designated suitable representatives. In most circumstances, a participant's TSC or SB also receives a copy of notices pertaining to the participant and they will be encouraged to reach out to the participant and ensure they understand available next steps following a Department determination. TSCs and SBs will also be encouraged to complete the Suitable Representative training modules and if completed can count that time toward required continuing education requirements associated with their position.

Maintenance, Monitoring, and Process Improvement

For each appeal, the Appeal Specialist will obtain and/or maintain:

- Documentation of the participant's choice to utilize a representative or not
- If a representative was chosen, documentation of training if completed
- If training is not completed, documentation that the participant and, if applicable, the representative completed an attestation that training is not desired
- If the participant indicates a desire for a Suitable Representative, but is unable to locate one without assistance, documentation of efforts made by the Department to assist the participant in identifying and securing a Suitable Representative, and documentation that a Department staff member was provided as a Suitable Representative to the participant if a Suitable Representative was not located elsewhere.

Any time changes are made to the DD program, Suitable Representative training materials will be updated as appropriate. The Department will complete a full review of all Suitable Representative training materials at least annually to ensure the training has been modified / updated as needed to capture any changes / modifications to the program.

The Department will solicit feedback about the Suitable Representative training from all persons completing the training via a questionnaire provided at the completion of the training. Feedback on the appeals process is currently solicited from participants as part of the Adult Services Outcome Review (ASOR). The Department will add additional questions to the ASOR regarding utilization of Suitable Representatives, and will develop a short survey to be completed at the end of each appeal process (i.e., completion of informal review or fair hearing as applicable).