

Rights Regarding Treatment Plans for Department of Mental Health Continuing Care Services

Department of Mental Health Planning Activities

Massachusetts Department of Mental Health (DMH) planning activities must incorporate the strengths, preferences and needs of clients and, where appropriate, those of their families or caretakers. They include assessments of individual clients and the development and review of individual service plans (ISPs) and individualized action plans (IAPs).¹ A DMH client with a DMH case manager will have an ISP. A DMH client with DMH community services will have an IAP (whether or not the client also has an ISP).²

DMH services planning activities are:

- conducted in the client's preferred language by a staff member fluent in the language or through competent interpreters;
- strength-based;
- person- and, when appropriate, family-centered;
- sensitive and responsive to a client's
 - cultural, ethnic and linguistic background
 - sexual orientation
 - gender differences
 - parental status and
 - other individual needs of the client;
- based on the results of assessments which are reviewed and modified as the client's needs or circumstances change; and
- based on information obtained through interactions with the client, the client's other service providers (with authorization), previously available records and, when appropriate, the client's family or caretakers.³

The goals of DMH service planning activities are to:

- promote client recovery and strength;
- identify the services that a client needs;
- facilitate or provide access to those services; and
- ensure that the services provided
 - are consistent with the client's needs, strengths, and preferences
 - are provided in the least restrictive setting possible and
 - promote community participation to the fullest extent possible.⁴

¹ 104 CMR 29.06.

² 104 CMR 29.06.

³ 104 CMR 29.06 (1).

⁴ 104 CMR 29.06 (2).

Clients and families have the right to:

- participate actively in the planning processes to the maximum extent possible;
- be present at all applicable planning and review meetings, unless they are unwilling or unable to attend;
- invite family members or other persons of the client’s choice to participate;
- identify and discuss their goals and preferred services and programs during planning meetings; and
- participate in a meaningful way in discussions and decision making.⁵

When clients are unable or unwilling to take part in a meaningful way, DMH should:

- develop plans for increasing the ability of the client to participate;
- modify the schedule or structure of the meetings or make other accommodations designed to increase client participation;
- educate the client to facilitate and increase participation; and
- assist the client in choosing services to the maximum extent possible.⁶

Individual Service Plan

The Individual Service Plan (ISP) is a service plan that DMH develops. The ISP is based on a comprehensive assessment of the client’s needs. DMH must complete the ISP within 20 days of the assignment unless an extension is granted.⁷ To develop the ISP, DMH shall review the documents submitted and, if needed, interview the client to identify service preferences and recovery goals, interview the client’s legally authorized representative (hereinafter “representative”), and interview other persons.⁸

The ISP shall identify the strengths, needs, and goals of the client and all other services and programs which may address the needs of the client including DMH and those available from other public and private entities.⁹ The services in the ISP shall be, to the maximum extent possible, consistent with what the client needs and provided in the least restrictive setting.¹⁰ Also, the ISP should be developed with coordination with the client’s other services.¹¹

The ISP is based on:

- the client’s needs and preferences as identified in the assessment of needs;
- availability of services.¹²

If any problems arise, the DMH case manager shall try to resolve them informally.¹³ If the case manager cannot resolve an issue within five days of identification, the DMH Area Director shall be notified and will intervene.¹⁴

⁵ 104 CMR 29.06 (3).

⁶ 104 CMR 29.06 (4).

⁷ 104 CMR 29.07 (2) (a).

⁸ 104 CMR 29.07 (2) (b).

⁹ 104 CMR 29.07 (3) (a) (2).

¹⁰ 104 CMR 29.07 (3) (a) (2).

¹¹ 104 CMR 29.07 (3) (a) (4).

¹² 104 CMR 29.07 (3) (a) (4) (b).

¹³ 104 CMR 29.07 (3) (a) (5).

What is discussed at the ISP meeting:

- client's goals;
- preferences of the client and the client's representative;
- client's needs;
- recommended services;
- currently available services, including those provided by or available from other agencies;
- potential and present service providers;
- dates, actual or anticipated, for commencement of each service;
- steps necessary to complete and implement the ISP;
- description of the financial assistance and services from federal, state, and local agencies available to the client, including benefits; and
- client's need for a guardian or a financial fiduciary.

Accepting or Rejecting the ISP

Once an ISP is completed, DMH gives it to the client for acceptance or rejection.¹⁵ Upon acceptance, the plan shall be implemented.¹⁶ If there is no objection within 20 days of receiving the plan, the ISP is considered accepted.¹⁷ If the client rejects the plan, the DMH case manager must meet with the client within 5 days of rejection to discuss the plan and possible modifications.¹⁸ If the client doesn't accept modifications, the client may appeal the plan.¹⁹ Meanwhile, DMH may implement the accepted parts immediately, if appropriate.²⁰

Annual Review of the ISP

No later than 12 months after the date of completion or modification of the service plan, the DMH case manager shall review the plan.²¹ The purpose of the review is to:

- ensure that services continue to be consistent with the client's preferences, needs, and strengths;
- reassess the client's needs for a guardian or financial fiduciary; and
- ensure that any Individualized Action Plan in effect continues to be compatible with the ISP.²²

At least 15 days prior to the review of the ISP, the DMH case manager shall inform the following people of the proposed meeting: the client, the client's representative, the representative of each of the client's service providers, other department staff, and any other appropriate person.²³

¹⁴ 104 CMR 29.07 (3) (a) (5).

¹⁵ 104 CMR 29.08 (1).

¹⁶ 104 CMR 29.08 (1) (a.)

¹⁷ 104 CMR 29.08 (1) (b).

¹⁸ 104 CMR 29.08 (1) (c).

¹⁹ 104 CMR 29.08 (1) (c).

²⁰ 104 CMR 29.08 (2).

²¹ 104 CMR 29.09 (1).

²² 104 CMR 29.09 (1).

²³ 104 CMR 29.09 (2).

At the meeting (or if the meeting is waived), the DMH case manager shall consider whether:

- the client continues to meet criteria for DMH services;
- the services being provided to the client continue to be consistent with their needs and goals; and
- there has been progress toward the attainment of such goals.²⁴

Within 10 days of the meeting, the DMH case manager shall prepare an ISP. Once the ISP is completed, the DMH case manager must obtain authorization from DMH for any community services involved.²⁵ The same rules that applied to the original ISP with regards to acceptance, appeal and implementation apply to the new ISP as well.²⁶

If DMH finds that the client no longer meets the criteria for DMH services, DMH refers the client for redetermination of eligibility.²⁷

Modification of the ISP

Request for ISP modification may be initiated by the client, the client's representative, the client's DMH community service provider, or the DMH case manager.²⁸ Modifications may be made at an annual review meeting or at any other time, if such a change will permit the client to receive more appropriate or less restrictive services consistent with the client's needs.²⁹

No modification of an ISP shall be made without the acceptance of the client or representative unless the modification is required to comply with state contracting requirements or to avoid serious or immediate threats to health.³⁰ The client or representative may reject or appeal the modifications.³¹

If the modification results in a substantial change in the client's situation, the modification must be done according to the procedures in 104 CMR 29.09 and will serve as the client's annual review.³²

Individualized Action Plan

If a DMH client receives one or more DMH community services, the client shall have a written integrated Individualized Action Plan (IAP).³³ The program that provides the services develops the IAP.³⁴ If the client receives more than one service, DMH designates a primary DMH community service provider to develop the IAP.³⁵

²⁴ 104 CMR 29.09 (3).

²⁵ 104 CMR 29.09 (4) (b).

²⁶ 104 CMR 29.09 (4) (c).

²⁷ 104 CMR 29.09 (5).

²⁸ 104 CMR 29.10 (1).

²⁹ 104 CMR 29.10 (2).

³⁰ 104 CMR 29.10 (3).

³¹ 104 CMR 29.10 (4).

³² 104 CMR 29.10 (6).

³³ 104 CMR 29.11 (1).

³⁴ 104 CMR 29.11 (1).

³⁵ 104 CMR 29.11 (1).

The IAP is based upon assessments and includes measurable goals, objectives and interventions, with timelines for completion.³⁶ Upon acceptance, the client or representative signs the IAP and the provider gives the client or representative copies.³⁷ If a client receives DMH case management, the DMH case manager is involved in planning the activities and the IAP must be compatible with the ISP.³⁸ If a client does not receive DMH case management, the provider must give DMH a copy of the IAP and any modifications.³⁹

Acceptance or Rejection of the IAP

Once the IAP is written, the provider must give it to the client or representative for acceptance or rejection.⁴⁰ The same rules regarding the acceptance, appeal and implementation of ISPs apply to IAPs as well.⁴¹

Review of the IAP

The IAP is reviewed after three months, six months, and at least annually thereafter as needs change or if the client requests review.⁴² The purpose of the review is:

- to evaluate the client's progress and current status in meeting the proposed goals; and
- to evaluate whether the services, goals, objectives, and interventions continue to be consistent with the client's needs.⁴³

If, after review, an IAP is modified, it will be given to the client or representative.⁴⁴ If DMH recommends that the client no longer receive services, then the provider will notify the DMH Area Director or designee for appropriate action.⁴⁵

If, at any time, the community service provider determines the client has not met his or her responsibility to the extent of his or her abilities, there shall be a review of the IAP, the situation will be documented, and a plan will be developed to address the situation.⁴⁶ If the situation is not resolved, the client may be asked to leave the program.⁴⁷ If asked to leave, the program director shall notify DMH and the client may request a review of the decision by the DMH Human Rights Committee or DMH Area Director.⁴⁸ In addition, clients may have other remedies, including protections under the Community Residence Tenancy Law.⁴⁹

³⁶ 104 CMR 29.11 (2).

³⁷ 104 CMR 29.11 (2) (c).

³⁸ 104 CMR 29.11 (2) (e).

³⁹ 104 CMR 29.11 (2) (f).

⁴⁰ 104 CMR 29.12 (1).

⁴¹ 104 CMR 29.12.

⁴² 104 CMR 29.13 (1).

⁴³ 104 CMR 29.13 (1) (a).

⁴⁴ 104 CMR 29.13 (2).

⁴⁵ 104 CMR 29.13 (3).

⁴⁶ 104 CMR 29.13 (4).

⁴⁷ 104 CMR 29.13 (4) (A).

⁴⁸ 104 CMR 29.13 (4) (C).

⁴⁹ Mass. Gen. Laws Ch. 186, §17A; 104 CMR 29.13 (4) (E).

If you have questions regarding treatment plans for DMH Continuing Care Services, contact the Mental Health Legal Advisors Committee.

Mental Health Legal Advisors Committee
399 Washington Street, 4th Floor
Boston, MA 02108
(617) 338-2345
(800) 342-9092