

**Excerpts of Standards or Rights Governing Services From  
Four State Statutes or Regulations**

These are not exhaustive, but constitute the main or overarching standards or rights which govern services to persons with developmental disabilities by the DHHS/AA system.

**I. Excerpt from New Hampshire's Services for the Developmentally Statute--RSA 171-A**

RSA 171-A:13 **Services Guarantees.** Every developmentally disabled client has a right to adequate and humane habilitation and treatment including such psychological, medical, vocational, social, educational or rehabilitative services as his condition requires to bring about an improvement in condition within the limits of modern knowledge.

**II. Excerpts from the Regulations on Eligibility and The Process for Providing Services—He-M 503**

He-M 503.08 Service Guarantees on Services for Which Funds Are Available.

(a) Except as provided by RSA 171-B, all services shall:

- (1) Be voluntary;
- (2) Be provided only after the informed consent of the individual or guardian;
- (3) Comply with the rights of the individual established under RSA 171-A:14 and rules adopted thereunder; and
- (4) Facilitate as much as possible the individual's ability to determine and direct the services he or she will receive.

(b) All services shall be designed to promote the individual's personal development and quality of life in a manner that is determined by the individual.

(c) Pursuant to (b) above, services shall:

- (1) Meet individual needs in personal care, employment, adult education and leisure activities;
- (2) Ensure, to the extent possible, that the individual is free from abuse, neglect and exploitation;

- (3) Increase the individual's experience of community in a variety of integrated activities and settings;
  - (4) Provide opportunities for the individual to exercise personal choice, independence and autonomy within the bounds of reasonable risks;
  - (5) Enhance the individual's ability to perform personally meaningful and/or functional activities;
  - (6) Assist the individual to acquire and maintain life skills, such as, but not limited to, managing a personal budget, participating in meal preparation, or traveling safely in the community; and
  - (7) Be provided in such a way that the individual is seen as a valued, contributing member of his or her community.
- (d) The environment or setting in which an individual receives services shall promote the person's freedom of movement, ability to make informed decisions, self-determination, and participation in the community [known as the least restrictive environment].

### **III. Excerpts from the Regulations on the Establishment and Operation of Area Agencies—He-M 505**

#### **He-M 505.03 Role and Responsibilities of the Area Agency.**

- (a) The primary responsibility of the area agency shall be to plan, establish, and maintain a comprehensive service delivery system for persons with developmental disabilities who are residing in the area. These services shall be planned and provided according to rules promulgated by the commissioner.
- (b) Pursuant to RSA 171-A:18, I, the area agency shall be the primary recipient of funds provided by the division for use in establishing, operating, and administering supports and services and coordinating these with existing generic services on behalf of persons with developmental disabilities in the area. The area agency may receive funds from sources other than the division to assist it in carrying out its responsibilities.
- (c) When possible, the area agency shall utilize generic, integrated services, rather than establish specialized services for people with developmental disabilities.
- (d) The area agency shall ensure that:
  - (1) All services shall facilitate as much as possible the individual's ability to determine and arrange the services he or she will receive;
  - (2)–(3) [ *Same as He-M 503.08 (b)-(d) , above.*]

(e) The area agency board of directors shall establish policies and procedures for the governance and administration of the area agency and all service components of the area service delivery system. Policies shall be developed to ensure efficient and effective operation of the service delivery system and adherence to requirements of state and federal funding sources, the area plan, and rules and contracts established by the department. Policies shall be developed to ensure that the area agency avoids any conflict of interest and any appearance of conflict of interest in its business relationships.

He-M 505.08 Redesignation.

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(f) An area agency shall be considered successful and operating efficiently when:

- (1) There is a high level of involvement of those who use and depend on services in all aspects of system planning, design, and development;
- (2) The area agency demonstrates through its coordination of services and supports a commitment to a mission which embraces community membership for persons with developmental disabilities;
- (3) Ongoing inquiry regarding individual and family satisfaction is a common practice;
- (4) Recipients of services and supports are satisfied;
- (5) The area agency is fiscally sound and manages resources effectively to support its mission;
- (6) The area agency board of directors demonstrates effective governance of the agency management and functions;
- (7) Supports and services are flexible and represent the needs, preferences, and capacities of individuals and families;
- (8) The area agency promotes preventative services and supports which reduce the need or the intensity of long-term care;
- (9) The area agency, through multiple means, demonstrates its commitment to individual rights and safeguards;
- (10) The area agency seeks to achieve continuous quality improvement in managing its operations and services; and
- (11) There is adherence to state and federal requirements.

#### **IV. Excerpts from the Regulations on the Rights of Persons Receiving Developmental Services in the Community—He-M 310**

He-M 310.04 Fundamental Rights.

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(b) The legal rights protected shall include, at a minimum:

(1) The right to freedom of religious preference and practice, the right to be free from engaging in any religious activity, and the right to receive reasonable assistance in attending places of worship;

(2) The right to register to vote, if eligible, in public elections and to receive assistance in registering to vote and in voting;

(3) The following civil rights, unless a court has determined that a client is legally incapacitated pursuant to RSA 464-A and a guardian has been appointed to make certain decisions or an emergency exists under He-M 305, personal safety emergencies:

a. The right to manage affairs;

b. The right to contract;

c. The right to hold professional, occupational, or motor vehicle driver's licenses;

d. The right to marry or to obtain a divorce;

e. The right to make a will; and

f. The right to exercise any other civil right;

(4) The right to not be discriminated against in any manner because of race, color, sex, religion, national origin, age, handicap, sexual orientation or degree of disability as provided in state and federal laws, title VII of the civil rights act of 1964, section 504 of the rehabilitation act of 1973, the age discrimination act of 1975 and the provisions of certain block grants, including:

a. Access to auxiliary aids needed by handicapped persons;

b. Services which are accessible to persons of limited English proficiency; and

c. Service locations that are physically accessible; and

(c) The right to legal remedies including the right to petition for and receive the benefits of a writ of habeas corpus and to seek any other remedy provided by law.

#### He-M 310.05 Personal Rights.

(a) Persons who are applicants for services or clients in the service delivery system shall be treated with dignity and respect at all times.

(b) Clients shall be free from abuse, neglect, and exploitation including, at a minimum, the following:

(1) Freedom from any verbal, non-verbal, mental, physical, or sexual abuse or neglect;

(2) Freedom from the intentional use of physical force except the minimum force necessary to prevent harm to the client or others or to impose emergency treatment under He-M 305, personal safety emergencies; and

(3) Freedom from personal or financial exploitation.

(c) Clients shall have the right to privacy.

(d) Clients shall have the right to confidentiality of all information and records pertaining to individual clients and former clients.

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(g) Clients shall have the right to complain about any alleged violation of a right afforded by these rules or by any state or federal law or rule or the unreasonable restriction of a legal, personal or treatment right of a person admitted in accordance with RSA 171-B, or any other matter. Any person shall have the right to complain or bring a grievance on behalf of an individual client or a group of clients. The rules governing procedures for protection of client rights, He-M 202, shall apply to such complaints and grievances.

#### He-M 310.06 Treatment Rights.

(a) Clients shall have the right to adequate and humane treatment, including:

(1) The right of access to treatment including:

a. The right to evaluation to determine an applicant's need for services and to determine which programs are most suited to provide the services needed;

b. The right to provision of necessary services to eligible persons when those services are available, subject to the admission and eligibility policies and standards of each program; and

c. The right to not be excluded from receiving services because of race, color, age, religion, sex, national origin, handicap, degree of disability, sexual orientation or inability to pay;

(2) The right to quality treatment including treatment and services in accordance with licensing requirements and rules adopted by the department in He-M 200-1300 and other applicable rules of state agencies and services provided in keeping with generally accepted clinical and professional standards applicable to the persons and programs providing the treatment and to the conditions for which the client is being treated;

(3) The right to services which shall be provided in such a manner as to promote the client's full participation in his/her community, except that persons admitted in accordance with RSA 171-B shall have only as much access to community activities as their individual treatment program allows;

(4) The right to the provision, in accordance with the time frame set in the individual service plan, of all services or treatment to which a person is entitled;

(5) The right to an individual service plan developed, reviewed, and revised in accordance with He-M 503;

(6) The right to service and treatment in the least restrictive alternative or environment necessary to achieve the purposes of treatment including programs which least restrict freedom of movement, informed decision-making, and participation in the community while providing the level of security and support needed by the client;

(7) The right to be informed of all significant risks, benefits, side effects, and alternative treatment and services and to give consent to any treatment, behavior management program, placement, or referral following an informed decision, except actions taken under He-M 305 or where otherwise provided by law, such that:

a. Whenever it is possible, the consent shall be given in writing; and

b. In all other cases, evidence of consent shall be documented by the program and shall be witnessed by at least one person;

(8) The right to refuse to participate in any form of experimental treatment or in any research;

(9) The right to be fully informed of one's own diagnosis and prognosis;

(10) The right to voluntary placement including the right to seek changes in placement, services, or treatment at any time or to withdraw from any form of

treatment or from the service delivery system, unless the person is admitted in accordance with RSA 171-B;

(11) The right to services which promote independence including services which shall be directed toward:

- a. Eliminating or reducing the client's need for continued services and treatment; and
- b. Promoting the ability of the clients to function at their highest capacity and as independently as possible;

(12) The right to refuse medications and treatment, except emergency treatment, under the terms and conditions provided in He-M 305 and RSA 135:21-b, unless the person is admitted in accordance with RSA 171-B;

(13) The right to referral for medical care and treatment including:

- a. Assistance in finding such care and treatment in a prompt and timely manner, and
- b. Access to such medical services as are required in accordance with He-M 503, placement in the service delivery system;

(14) The right to consultation and second opinion including, at the client's own expense, the consultative services of private physicians, psychologists, dentists, and other health practitioners who shall be given reasonable access to the client in programs and shall be allowed to make recommendations to programs regarding the services and treatment provided by the programs;

(15) The right, upon request, to have his/her guardian, representative, attorney, family member, advocate, or consultant present at any treatment meeting requiring client participation and informed decision-making by the client; and

(16) The right to freedom from restraint including the right to be free from seclusion and physical, mechanical or pharmacological restraint except that:

- a. Such means of seclusion and restraint may be used as part of a treatment plan to which the client or client's guardian, if any, has consented having made an informed decision to do so; and
- b. Physical restraint may also be used as a form of emergency treatment following the requirements of He-M 305, personal safety emergencies, or when the client is admitted in accordance with RSA 171-B.

(b) Whenever possible, clients shall be served in generic, integrated services rather than specialized programs for persons with developmental disabilities. Programs may restrict access by clients to various areas to ensure privacy or safety of the clients and may restrict such access by clients to achieve other necessary objectives contained in the individual service plan or to comply with provisions of law and orders of court.

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