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TITLE 212 – DEPARTMENT OF BEHAVIORAL HEALTH ~~CARE,~~ DEVELOPMENTAL DISABILITIES, AND HOSPITALS

CHAPTER ~~120~~ – PARENT DE-INSTITUTIONALIZATION PROGRAM

SUBCHAPTER 00 - N/A

PART 1 – Parent De-institutionalization Subsidy Aid Program

Introduction

- ~~— The Rhode Island Legislature, pursuant to R.I. G.L. 40.1-1-10.1 as amended, established the Parent Deinstitutionalization Subsidy Aid program in 1978 within the Department of Mental Health, Retardation and Hospitals (MHRH).~~
- ~~— This subsidy program makes available care, treatment and training to eligible individuals in family homes rather than in public institutions. The subsidy program thereby furthers the provision of home and community based care, treatment, and training to eligible individuals.~~
- ~~— When the law was enacted, only mentally retarded residents of the Dr. Joseph H. Ladd Center and the Dr. U. E. Zambarano Memorial Hospital Pediatric Unit were eligible. A series of amendments has broadened eligibility to include individuals in other public institutions as well as certain individuals who have not been institutionalized.~~
- ~~— The subsidy program seeks to assist both children and adults who experience a mental or physical condition of sufficient severity to cause them to be admitted to a State institution if there were not a specialized community program available.~~
- ~~— While the program is intended to provide a subsidy on a continuing basis, the Department presumes some individuals will experience improvement in functioning to a degree that they no longer meet the eligibility criteria for admission to a State institution. Therefore, it is expected some individuals will exit the subsidy program.~~
- ~~— The law affects three Divisions of the Department of MHRH with each Division being responsible for procedures which are consistent with the rules herein.~~

1.1 Statement of Purpose

- A. It is the purpose of these rules and regulations to implement R.I. Gen. Laws ~~§§ 40.1-1-10.1 to and 40.1-1-10.12~~, the Parent Deinstitutionalization Subsidy Aid Program subject to available funds.
- B. ~~By law the~~ program is founded for the express purpose of providing financial assistance or subsidy aid to the qualified parent applicant, as defined herein, who is found and certified to be qualified by the Director of the Department MHRH to receive and take into his or her care, custody, and control an eligible person, as defined herein. ~~person under the legal authority and control of the Director of MHRH who is and has been a resident (or patient) of the Dr. Joseph H Ladd Center, the Dr. U. E. Zambarano Memorial Hospital, the Institute of Mental Health or the General Hospital, or a resident in an out of state institution, who would have been eligible for placement in the Dr. Joseph H. Ladd Center, the Dr. U. E. Zambarano Memorial Hospital or the Institute of Mental Health or the General Hospital for a period of time not less than ninety (90) days, or would be a resident of one of the aforementioned facilities for a period of ninety days or more if a specialized community program were not developed to meet the person's particular and/or unique needs.~~

1.2 Authority - Scope - Enforcement

- A. Authority: These regulations are promulgated pursuant to R.I. Gen. Laws ~~§§ - Chapter 40.1-1-10 and 40.1-1-10.1~~.
- B. Scope: These regulations shall apply only to persons receiving or applying to receive the parent subsidy.
- C. Enforcement: Applicants for or recipients of the subsidy who do not conform to the regulations shall not receive the subsidy.

1.3 Definitions

- A. Terms as used herein are defined below:
1. "Care, custody and control" means that the certified parent(s) will take into his/her/their place of residence an eligible person who requires supervised living and further:
 - a. Care means personal care or supervision of activities essential to the eligible individual's daily functioning, includes the following:
 - (1) assistance with or supervision in dressing, eating, bathing and other personal hygiene;

(2) maintenance of a medication schedule as directed and supervised by a physician and assistance to obtain medical/nursing and rehabilitation services;

(3) management of the individual's social and behavioral needs.

b. Custody and control means that the parent shall have full responsibility for the welfare of the eligible individual and shall be aware of his/her whereabouts at all times.

“Eligible person” or “eligible individual” means:-

a. ~~a person who is and has been a resident (or patient) for 90 days of the Dr. Joseph H. Ladd Center, the Dr. U. E. Zambarano Memorial Hospital, the Institute of Mental Health or the General Hospital ; or~~

b. ~~resident in an out of state institution who would have been eligible for placement in the Dr. Joseph H. Ladd Center, Dr. U. E. Zambarano Memorial Hospital, the Institute of Mental Health, the General Hospital for a period of time not less than ninety (90) days; or~~

c. ~~a person who would be a resident (or patient) for 90 days or more in one of the aforementioned facilities in the absence of the subsidy. It shall be found that this criterion is met when 1 or more of the following conditions exist:-~~

1) ~~the person's handicap causes him/her to be dependent on others for basic functions of daily living.-~~

2) ~~the person's severe behavior problems require constant supervision.-~~

d. ~~Handicap means any of the disabilities served by the facilities named in § 1.3(A)(1)(a) of this Part.-~~

2. ~~“MHRH” “Department” means the Rhode Island Department of Mental Health Retardation Behavioral Healthcare, Developmental Disabilities and Hospitals.~~

3. ~~“Designated local agency” means a mMental hHealth agency authorized by MHRH the Department to evaluate, certify and monitor placements under R. I. Gen.eral Laws Chapter § 40.1-1-10.~~

4. “Director” means the Director of MHRH the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals.
5. “Eligible person” or “Eligible individual” means:
 - a. A person who is and has been a resident (or patient) for ninety (90) days of the Dr. Joseph H. Ladd Center, the Dr. U. E. Zambarano Memorial Hospital, the Institute of Mental Health or the General Hospital; or
 - b. Resident in an out-of-state institution who would have been eligible for placement in the Dr. Joseph H. Ladd Center, Dr. U. E. Zambarano Memorial Hospital, the Institute of Mental Health, the General Hospital for a period of time not less than ninety (90) days; or
 - c. A person who would be a resident (or patient) for ninety (90) days or more in one of the aforementioned facilities in the absence of the subsidy. It shall be found that this criterion is met when one (1) or more of the following conditions exist:
 - 1) the person’s disability causes him/her to be dependent on others for basic functions of daily living.
 - 2) the person’s severe behavior problems require constant supervision.
 - d. Disability means any of the disabilities served by the facilities named in § 1.3(A)(1)(a) of this Part.

“Parent” means natural parent(s), adoptive parent(s), foster parent(s), or caretaker friend or relative, any of which may include a court appointed guardian.

- a. In the situation where the natural or adoptive parents are divorced or separated, the word “parent” shall mean the parent with whom the eligible person lives.
- b. Foster parent refers to a person licensed by the Department for Children and Their Families (DCF) who has an eligible child in their home.
- c. Caretaker friend or relative refers to a person certified by MHRH to receive the subsidy for an adult.

6. “General Service Plan (GSP)” means the final written document which states the treatment and management needs of the eligible individual, specifies provision for appropriate services, and includes a description of the intended use of the subsidy.

“Parent applicant” means the person who has made application to receive subsidy aid.

7. “Home evaluator” means the person who visits the home of the parent applicant and evaluates the home and family to determine suitability.

“Subsidy Aid” means payment or continued payments to a certified parent(s) to receive and take into his/her/their care, custody and control an eligible individual.

8. “Parent” means natural parent(s), adoptive parent(s), foster parent(s), or caretaker friend or relative, any of which may include a court appointed guardian.

a. In the situation where the natural or adoptive parents are divorced or separated, the word “parent” shall mean the parent with whom the eligible person lives.

b. Foster parent refers to a person licensed by the Rhode Island Department of Children, Youth and Families (DCYF) who has an eligible child in their home.

c. Caretaker friend or relative refers to a person certified by the Department to receive the subsidy for an adult.

~~“Care, custody and control” means that the certified parent(s) will take into his/her/their place of residence an eligible person who requires supervised living and further:-~~

~~a. Care, which means personal care or supervision of activities essential to the eligible individual’s daily functioning, includes the following:-~~

~~1) assistance with or supervision in dressing, eating, bathing and other personal hygiene;-~~

~~2) maintenance of a medication schedule as directed and supervised by a physician and assistance to obtain medical/nursing and rehabilitation services;-~~

~~3) management of the individual’s social and behavioral needs.-~~

~~b. Custody and control means that the parent shall have full responsibility for the welfare of the eligible individual and shall be aware of his/her whereabouts at all times.~~

9. "Parent applicant" means the person who has made application to receive subsidy aid.

~~Training~~ means monitoring and implementing activities designed to assist the eligible individual in his or her development of functional skills and adaptive behavior.

a. Adaptive behavior means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his/her age and cultural group.

10. "Subsidy aid" means payment or continued payments to a certified parent(s) to receive and take into his/her/their care, custody and control an eligible individual.

~~Home Evaluator~~ means the person who visits the home of the parent applicant and evaluates the home and family to determine suitability.

11. "Training" means monitoring and implementing activities designed to assist the eligible individual in his or her development of functional skills and adaptive behavior.

a. Adaptive behavior means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his/her age and cultural group.

~~The General Service Plan (GSP) means the final written document which states the treatment and management needs of the eligible individual, specifies provision for appropriate services, and includes a description of the intended use of the subsidy.~~

1.4 Eligibility of the Parent Applicant

A. Application to be certified for the subsidy aid program shall be made on MHRH Department forms and shall be signed by the parent applicant(s). Each dDivision of MHRH the Department shall make forms available for their applicants.

B. ~~Age~~ ~~The M~~ minimum age is eighteen (18) years. Otherwise, ~~age~~ age of the parents applicant(s) will be considered only if it affects his/her/their physical capability, flexibility, and ability to care for and provide training for an eligible child or adult.

- C. **Health.** All family members should be in sufficiently good health to meet the needs of the adult or child placed with the family. In instances where there is a question that health may affect the ability of the parent applicant to care for the person, a written statement from a physician will be obtained as part of the home study evaluation process. Statements concerning health must be annually updated.
- D. **Income Limit** (See also § 1.12(A)~~(2)(e)~~ of this Part). Gross income shall not exceed four hundred (400%) percent of fFederal pPoverty level gGuidelines in the case of natural parents.
- E. **Employment of the pParents oOutside the hHome.**
1. There must be arrangements for adequate care and supervision of the eligible individual during the parents' absence. Parents must demonstrate that employment does not detract from implementation of the eligible individual's program plan.
- F. **Home Study - cCharacteristics of the fFamily uUnit and hHome.**
1. There shall be a home study conducted by a Home Evaluator who shall be a social worker from the appropriate dDivision of MHRH the Department or designated local agency, (See § 1.3(A)(3) of this Part). The most important requirements pertain to the personal characteristics of the family as a unit and as individuals. These characteristics must be consistent with the needs of each eligible person placed with a family.
 2. Placements shall not be made in households which include more than one (1) non-relative, such as roomers, boarders or foster family members.
 3. The Home Evaluator shall meet all members of the family to determine their views, feelings and opinions about providing care and assistance.
 4. The home study shall include the Home Evaluator's observations about the family members' characteristics such as: patience, understanding, open-mindedness, adaptability, and stability. Other factors to be included in the study are: the physical aspects of the house and the environment of the community, (e.g. availability of recreation, education or work facilities, home health services, stores, churches, transportation and the general physical environment), and in the case of natural and adoptive parents, the financial dependence of the parents on the subsidy in order to avoid placement. The Home Evaluator shall provide a written report summarizing significant factors.
 5. The home study shall be kept on file with the parent(s) application.

- G. Visits by the Department MHRH or designated local agency.
1. The applicant(s) shall indicate in writing acceptance that unannounced visits may be made to his/her/their home by a representative from MHRHthe Department or a designated local agency for the purpose of monitoring the program and services being provided.
- H. Training Sessions
1. Parent(s) or parent applicant(s) shall indicate in writing willingness to participate actively in such training sessions as specified by the Department MHRH or designated local agency in order to receive the subsidy aid.
 2. Such training shall be to train parent(s) and parent applicant(s) to become knowledgeable about developmental and/or functional disabilities and about care and treatment techniques needed to assist in the individualized service program.
- I. Licensing prior to certification for Subsidy Aid by MHRHthe Department or the designated local agency.
1. Natural or Adoptive parent(s) are not subject to licensure regardless of age of eligible person.
 2. Foster parent(s) for children shall be licensed by DCYF the Department for Children and Their Families. The Home Evaluator assists the parent applicant(s) by directing him/her/them to the licensing authority.
 3. Caretakers for adults are not subject to licensure under existing State laws unless there are two (2) or more adults receiving care.
- J. Marital Status - No restrictions.

1.5 Certification of the Parent Applicant as a Qualified Participant in the Program

- A. MHRHThe Department shall provide the form for certification which will be signed in conformance with the law and specifically shall be signed by the Home Evaluator.
- B. Waiting lists shall be maintained by each Ddivision of the Department MHRH for their own clients. Priority shall be given to families with members who have severely and multiple disabilities and multihandicapped members who are experiencing a high degree of family stress.

- C. When an application is rejected, there shall be a written response to the applicant, which includes a clear statement of the reasons for rejection and an offer of an opportunity to discuss the findings informally or by appeal ~~as in Rule 15.~~
- D. Applicants shall not be certified for more than one (1) client in the home, with the exception of siblings. Authorized placements in excess of that number ~~as of 7/1/84~~ will be excepted from this ~~rule~~Part.

1.6 Subsidy Agreement

- A. Where subsidy aid is to be provided, a written agreement between the Department ~~of MHRH~~ or designated local agency and the parent applicant(s), with clearly delineated terms, shall precede the subsidy payments.
- B. The provisions shall be explained verbally to the parent applicant(s) who, after a period of study and consultation, shall sign the agreement jointly with the Department MHRH or the designated local agency. Included in the agreement shall be relevant items sections contained in this Part 4.1.6.1, 4.1.7.1, 4.4 and other content herein requiring written agreement.
- C. A new written agreement shall be provided for the certified parent for each year.
- D. Each agreement shall require progress reports. The certified parent(s) shall prepare and submit reports as to implementation of the plan and will discuss them with a representative from MHRH the Department or designated local agency. Monthly reports are mandatory for the first twelve (12) months; reporting may then be scheduled as the social worker deems necessary, but at least semi—annually.

1.7 Eligibility of the Child or Adult to be in the Program

- A. The appropriate ~~d~~Division of the Department MHRH or designated local agency shall have written procedures to determine eligibility of an individual as defined in Rule 3 § 1.3 of this Part.
 - 1. Division of Behavioral Healthcare Mental Health: This determination shall be made by the designated local agency in whose catchment area the individual resides using the admission criteria of the Institute of Mental Health.
 - 2. Division of Retardation Developmental Disabilities: This determination shall be made by Department Of Revenue R Social Services Unit.

3. Division of Hospitals and Community Rehabilitative Services: This determination shall be made by the Division's hHospital admission teams.
- B. The client record shall contain documentation of the decision that the subsidy was essential to avoid institutionalization or to achieve discharge.
- C. For residents/patients being placed from a a Department -MHRH placement-institution, the -institutionplacement's interdisciplinary team shall review the client's status and confer with staff from the appropriate local agency services in order to design an effective placement plan.
- D. For individuals not residents/patients of a a Department placement-MHRH-institution, the responsibility for review shall be as follows:
1. Division of Behavioral HealthcareMental Health: The designated local agency.
 2. Division of Developmental DisabilitiesRetardation: The Department of RevenueOR Social Service Unit.
 3. Division of Hospitals and Community Rehabilitative Service: Admission teams of the hospitals.
- E. A General Service pPlan (GSP) shall be constructed to reflect and prioritize each individual's needs. The plan shall provide a framework in which each individual's progress can be monitored, measured, and assessed periodically. The plan shall include a description of the intended use of the subsidy.
1. The GSP shall be based upon data from professionally accepted assessments of the client performed within the previous twelve (12) months.
 2. The GSP shall address physical health needs, mental health needs, social needs, educational needs, vocational needs, and leisure needs.
 3. The GSP shall include the names of the providers who will be responsible for meeting the needs. The portion of the plan which constitutes the subsidy aid plan shall be developed with the parent(s) and incorporated into the GSP upon completion.

1.8 Matching of the Appropriate Parent Applicant or Certified Parent with the Eligible Person

- A. Applicant or certified parents and eligible persons shall be reviewed by the responsible MHRHDepartment division or designated local agency to determine appropriateness of placement.
- B. All staff assigned by the appropriate Ddivision of MHRHthe Department or designated local agency shall confer to discuss the needs of the placement candidate and the characteristics of the applicant or certified person. Such conferring is in addition to the established discharge planning procedures of the institutionplacement for those candidates leaving an placement-institution.
- C. When a match is made, the plan will be explained to the parent and training will be provided as needed by the dDivision or designated local agency arranging the placement.
- D. When the parent has agreed to the placement, the contract or agreement shall be processed by the appropriate dDivision of MHRHthe Department.

1.9 Authorization of the Eligible Person to Enter the Parent Deinstitutionalization Subsidy Aid Program

- A. The approved written plan for the use of the subsidy and the contract ~~(or agreement)~~ shall constitute such authorization.
- B. The plan shall be signed by parent(s) and the dDivision or designated local agency representative and shall be filed in the record.

1.10 Case Management

- A. The appropriate dDivision of MHRHthe Department or designated local agency shall name the social worker or other staff member, who is responsible for the on-going monitoring of the placement and activity related to approving the subsidy payments.
- B. A copy of the plan shall be retained by the social worker from the dDivision of MHRHthe Department or designated local agency.

1.11 Evaluation and Monitoring after Placement is Effected

- A. Quarterly reports to evaluate the placement shall be prepared by a social worker from the appropriate dDivision of MHRHthe Department or designated local

agency. The reports shall be filed in the client's record in the appropriate ~~d~~Division or designated local agency.

- B. Program plans shall be updated and revised at least every twelve (12) months and more often if indicated by the needs of the client. The social worker (as in § 1.10(A) of this Part) is responsible for related activity as designated herein.
- C. The twelve (12)- month revision of the plan shall be based on professional assessments performed by the professional staff of the program or agency providing services to the eligible person.
- D. The parent(s) shall participate in the interdisciplinary case conference relating to the client held by said program or agency, if possible. Otherwise, the written report of the conference shall be discussed with the parents by assigned staff.
- E. The social worker shall revise the program plan for the parent subsidy program to incorporate the results of the conference.
- F. In the event that the eligible person has no involvement with a program or agency, it shall be the responsibility of the appropriate DepartmentMHRH ~~D~~division, upon request of the social worker, to assign professionals for the purpose of assessment and recommendations.
- G. At least monthly for the first three (3) months, there shall be a personal visit made by the social worker to the home to see the parent and the eligible individual to assure that the placement is satisfactory. Thereafter frequency of visits may be reduced to quarterly at the discretion of the ~~D~~division of MHRHthe Department or the designated local agency.
- H. The case record shall include the dates of the visits and the observation of the social worker.
- I. The social worker shall submit all monthly and quarterly reports to his/her supervisor and shall forward the monthly payment authorization to the Central Office of the ~~d~~Division of MHRHthe Department involved. ~~(See reference material attached)~~

1.12 Subsidy Aid Amounts

- A. Subsidy Aid ~~P~~payments will be given to parent(s) after they are certified and have received a contract from the State and have accepted the person into their home. Payments are stated in ~~the law, R.I. Gen. Laws § 40.1-1-10.1.;~~
 - 1. ~~"A qualified parent applicant who is the natural or adoptive parent and certified as eligible for subsidy aid under said deinstitutionalization"~~

~~program shall receive an amount of not less than twenty five dollars (\$25.00) and not more than sixty dollars (\$60.00) for the basic care of each child or adult for a seven (7) day or weekly period, and an amount of not less than five dollars (\$5.00) and not more than fifteen dollars (\$15.00) for the training of each child or adult for the same period.~~

~~2. "A qualified parent applicant who is a foster parent and certified as eligible for subsidy aid under said deinstitutionalization program shall receive an amount of not less than five dollars (\$5.00) and not more than fifteen dollars (\$15.00) for training of each child or adult and an amount of not less than twenty five dollars (\$25.00) and not more than sixty dollars (\$60.00) for basic care and treatment for a seven (7) day or weekly period. These amounts designated for foster parents (of children) shall be in addition to the basic payments to foster parents from the Department for Children and Their Families for foster home placement."~~

- a1. Subsidy payments to parents/foster parents shall be for needs which SSI or other benefits and/or DCYF supplementary payments do not meet. It must be documented that without the subsidy, the eligible person could not be maintained in the home.
- b2. Payments shall not be made when the eligible individual or his/her parent(s) is(are) the recipient of a court awarded or out-of-court settlement related to the eligible person's condition.
- e3. Payments shall not be made to natural parents whose gross income exceeds four hundred (400%) percent of the Federal poverty level guidelines, for a family of their size, including the eligible person.

1.13 Continuation of Subsidy Payment from Year to Year

A. Each contract expires at the end of the State fiscal year, June 30th.

1. In keeping with the intent of the Subsidy Aid pProgram, which is to avoid institutionalization of people with significant health care and/or psychiatric needs by providing a subsidy, there must be documentation that the level of care needed by the individual would qualify them for admission to the institution placement and that without continuation of the subsidy the certified parents could not maintain the eligible person in the home.
2. Provided the GSPGeneral Service Plan recommends the placement/subsidy continue, a recertification form shall be processed.

3. A contract shall be prepared and processed for the new fiscal year when there is a current certification in place.

1.14 Termination of a Subsidy Aid Contract Agreement

- A. The parent may terminate participation in the program upon written notice to the social worker of the appropriate ~~d~~Division of the Department MHRH or designated local agencies and, in foster child placements, to the DCYF worker as well.
- B. ~~MHRH~~The Department or the designated local agency shall terminate the subsidy aid as needed to conform to § 1.12(A)(~~1~~) through (~~32~~) of this Part (~~a-e~~) or for any of the following reasons:
 1. Substantiated charges of physical or emotional abuse of the individual by the parent(s) or foster parent(s) or other individuals residing in the home.
 2. Inability and/or unwillingness of the parent(s) or foster parent(s) to cooperate with the Department concerning the eligible person's basic care and training program.
 3. Determination that the parent(s) or foster parent(s) is/are unable to meet physical, nutritional, emotional or behavior needs of the eligible person.
 4. Determination by the appropriate DepartmentMHRH dDivision or designated local agency that the eligible participant's level of functioning has changed from dependent to independent.
- C. ~~MHRH~~The Department shall inform the parent(s) or foster parent(s) when and if the subsidy aid is to be terminated by a thirty (~~30~~) day notice in writing, except in cases of emergency or when determination has been made that the eligible person's physical or mental well-being is endangered. Said notice shall include a statement advising the parent(s) or foster parent(s) of their right to appeal the decision. Other appropriate legal action will be taken as the situation warrants.

1.15 Administrative Appeals and Hearings

- A. All hearings and reviews required pursuant to these rules and regulations shall be held in accordance with the provisions of R.I. Gen. Laws § 42-35-1 et seq. and the Executive Office of Health and Human Services (EOHHS) rules and regulations for Appeal Process and Procedures for EOHHS Agencies and Programs, 210-RICR-10-05-2.

~~Any parent(s) or parent applicant(s) who seek to appeal a decision on rejection or termination of subsidy aid shall appeal in writing for an administrative hearing of~~

~~that decision to the Office of the Associate Director in the appropriate Division of MHRH.~~

- ~~1. The right to an administrative appeal is conditional upon the applicant's complying with the provisions of the State's Administrative Procedures Act, contained in R.I. Gen. Laws Chapter 42—35.1 et seq.~~
- ~~2. The administrative hearing shall be conducted in accordance with the Administrative Procedures Act.~~