



Rhode Island Executive Office of Health and Human Services
Appeals Office, 57 Howard Ave., LP Building, 2nd Floor, Cranston, RI 02920
Phone: 401-462-6827 / Fax: 401-462-0458

Docket # 15-177
Hearing Date: 03/25/15

Date: April 16, 2015

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided in against you. During the course of the proceeding, the following issue(s) were the matters before the hearing.

BHDDH: Rules and Regulations for Licensing of Developmental Disability Organizations
SECTION: 35.01.01 SIS Assessment
RI General Law 40.1-21

The facts of your case, the Agency rules and regulations, and the complete administrative decision made in this matter follow. Your rights to Appeal of this decision are found on the last page of this decision.

Present at the hearing were your mother, your father, your sister and Agency Representatives: Daniel Ballirano and Carolee Leach.

Copies of this decision have been sent to the following: You and Daniel Ballirano.

ISSUE: Does the appellant's Tier package meet his needs per BHDDH Rules and Regulations.

BHDDH Rules and Regulations:

Please see the attached APPENDIX for pertinent excerpts from the BHDDH Rules and Regulations.

APPEAL RIGHTS

Please see attached **NOTICE OF APPELLATE RIGHTS** at the end of this decision.

DISCUSSION OF THE EVIDENCE:

DISCUSSION OF THE EVIDENCE:

The agency representative testified that:

- The Agency conducted a SIS (supports intensity scale) interview on October 2, 2013 to evaluate the level of supports that the appellant needed. An SIS profile was authorized by the Agency.
- A letter was then sent to the appellant on October 3, 2014 indicating the budget the appellant had been approved for effective January 1, 2015.
- Subsequent to that letter the appellant filed an S109 form, which is a request for an internal review of the service authorization.
- The appellant also sent in supporting documentation with the S109.
- The Agency sent an S110 Form on December 10, 2014, which is was a denial of more services after the review of the S 109.
- A SIS is a nationally normed tool to assess the supports intensity needs of a participant.
- The Agency interviews client, parent's, workers and anyone involved with client that can give information.
- This tool was purchased from out of state and is scored out of state. The tool indicates the types of supports that a recipient needs to live in the community.
- The appellant's interview and profile was scored as a tier A. This means the appellant has a very specific package of supports based on the SIS.
- Tiers are not ranked low to high they are based on profiles of recipients.
- The appellant is high functioning.
- He lives at home with his mother and father.
- The tool that the Agency uses to decide what services the participant is eligible for is used by many states, not just RI.

- The tool was purchased from a national company called AAIDD. Employees of the Agency are trained on how to administer this program and go to be trained out of state to become certified in the use of the program. They must be certified every year. The answers of the interview are compared nationally to make sure the scoring ranks about the same as the rest of the nation and the rest of the state. The people who administer the tool are highly trained state employees.
- The tool is set up in such a way that independent people perform and evaluate the SIS.
- The interview was done at the appellant's home and medical documentation was also provided.
- After the interview takes place the answers are recorded into a computer and the file is sent to AAIDD to be scored and the needs for benefits are assessed and returns to the Agency as a Tier.
- The appellant was found eligible for Tier A.
- Tier A indicates that the appellant is eligible for five hours a week of family support, thirty hours a week of a day program, two trips per day of transportation if indicated, one unit of case management per month and three hours of professional services.
- A lump sum of money is given to the consumer and if they are in a self-directed plan like the appellant is they can use the funds in the way they choose to purchase services.
- A person can appeal if they need more hours than their tier allows.
- If the appellant could demonstrate that he needed forty hours a week then that would be supports beyond the tier.
- The appellant did not come out on the SIS as needing one to one supports.
- The appellant is using fewer hours than supported by his tier because he is choosing to use the more expensive one to one support instead of community support.
- The appellant uses a self- directed model of using his benefits. He spends his benefits allotment how he feels it best serves him.
- The appellant is using all one to one support instead of shared supports.
- Tier A is a benefit of \$20,550.12 at this time.

The appellant's parents testified:

- They take issue with the fact that the appellant is getting shared supports instead of one to one.
- They feel his condition warrants one to one supports.
- He is very anxious and will not go to day programs.
- When taken out in public he can be very hard to handle. He needs to do the same things the same ways or he can get very agitated. He can get somewhat violent, scratching and spitting.
- His doctors stated that his conditions of anxiety, epilepsy and behavioral changes indicate that he needs twenty-four hour adult supervision.
- He cannot be left alone because he will wander the streets and sometimes they cannot find him.
- He is obsessed with gift cards and will just take them from restaurants and stores. He takes menus also.
- He did not stay in the group setting day program because he would not go.
- They cannot go anywhere because he acts out if they take him with them and he cannot stay alone.
- He cannot take a shower or shave by himself.
- Their daughter has worked with people who behave better that get more hours.
- His sister is now his caregiver and she helps him shower and shave and takes him for a ride. She takes him to her house in the summer to swim. He uses her gym equipment to exercise.
- She takes him to volunteer at the food bank once a week.
- It makes it so much easier for them.
- His sister comes almost every day.
- She takes him for the weekends.
- He takes seizure medication. His seizures are now under control. He is now on anxiety medication.

- He does not get psychiatric treatment. No one would take him because of his coverage.
- His sister comes thirty-two hours a week and then on weekends.
- Now she only gets paid for sixteen hours.
- Options are their self-directed program. They pay them \$2236.00 per plan year. Workers comp is \$405.00 and \$350.00 for plan writing.

FINDINGS OF FACT:

- The appellant is active on a BHDDH Waiver.
- The Agency did a SIS on October 2, 2013.
- On October 3, 2014 the Agency sent the appellant a letter indicating what his benefit amount would be in January 2015.
- The appellant filed an S109 form asking for informal review on October 21, 2014.
- The Agency sent an S110 for denying further funding on December 10, 2014.
- The appellant filed for a formal appeal received by the Agency January 13, 2015.
- The hearing was held March 25, 2015.
- The record of hearing was held open for two weeks for further information.
- No further evidence was received while the hearing record remained open.

CONCLUSION:

The issue to be decided is whether the appellant is eligible for services beyond Tier A.

A review of BHDDH Rules and Regulations reveals that an adult with developmental disabilities who applies for waiver services funded by BHDDH shall be deemed eligible in accordance with the following process. The Agency uses an SIS Assessment. The applicant may choose a team of individuals, including themselves, care planners, providers, family members or friends to help in informing the SIS (supports intensity scale) assessors. The SIS assessors make verify that

selected individuals, other than those the participant has chosen, are appropriate to participate in the SIS interview. Based on the SIS assessment the participant is assigned a score. Based on that score the participant is assigned a service package. The service package is then translated into a quarterly resource allocation. Once the applicant has been assigned a resource allocation they can then choose which DDOs (Developmental Disability Organizations) will provide services to them or they will make the choice of self-directed services.

In this case the Agency testified that an SIS interview and assessment was done on October 2, 2013. The assessment was sent out of state for scoring and returned to BHDDH. On October 3, 2014 the Agency sent the appellant a letter indicating that the assessment had been completed and scored and what Service Package the appellant had been assigned. This notice also indicated that the Service Package would take effect on January 1, 2015. The appellant was given Service Tier A, which included; five hours a week of family support, thirty hours a week of a day program, two trips per day of transportation if indicated, one unit of case management per month and three hours of professional services.

The appellant's parents testified that they did not agree with the allotment of thirty hours of shared support. They feel that due to the appellant's condition he needs thirty hours one to one support. They filed a form S109 which requested a review of the Service Package. The Agency representative testified that an internal review was done by the tier review committee and it was decided that the supports requested by the appellant were not justified. The appellant was sent an S110 form informing him of that decision on December 10, 2014.

The appellant's parents testified that the appellant is not able to be alone at all because he wanders and cannot take care of himself. He needs help with all activities of daily living. Their daughter is his caretaker and she used to care for him for thirty-two hours a week but now only sixteen hours. This is not enough hours. He needs her at least thirty hours.

The Agency argues that if the appellant uses his budget strictly to pay his sister and the financial intermediary his budget would still support more than sixteen hours of one to one care.

The appellant uses the Self-directed model to use his allotted benefits and therefore he hires his sister to provide one to one support instead of Group Support. The hours were not cut the amount of the budget was. The appellant receives a lump sum of money and then his family decides on what services they will use the money. They hire the person they wish to be his caregiver and decide how many hours to pay them for based on the benefits they have to use.

The Agency argues that he cannot ask for more supports when he does not use the amount of Shared Supports he was found eligible for. While he can use the benefits he is eligible for on one to one supports instead of group supports, the Agency will not increase his budget beyond his Tier.

The BHDDH Rules and Regulations clearly state how the Benefits Packages are calculated and what supports they include. There is a preponderance of evidence that the BHDDH Rules and Regulations were followed in this case. The evidence submitted at hearing also indicates that the appellant's physician states that he needs adult supervision at all times and the Tier

Package he is eligible for does make that available to him. He has not been in a Group Support setting for quite a while and could take advantage of different programs than the one he tried in the past.

In summary there is no objective medical evidence that indicates the appellant needs cannot be met by the Tier A Service Package.

After careful and considerate review of the Agency's Rules and Regulations as well as the evidence and testimony submitted, this Appeals Officer finds that the Agency followed The BHDDH Rules and Regulations in determining the appellant's Supports Package; therefore his request for relief is denied.

A handwritten signature in cursive script, appearing to read "G. Stanford".

Geralyn B Stanford
Appeals

APPENDIX

Section 35.0 *Eligibility and Access to Services by Participants*

- 35.1 An adult with developmental disabilities who applies for waiver services funded by the Department shall be deemed to be eligible in accordance with the following process:
- 35.1.1 **Eligibility Determination:** Adults applying to BHDDH for services shall be assessed according to applicable statutory requirements.
 - 35.1.2 **SIS Assessment:** If determined eligible, a Participant selects a team of individuals, including themselves, care planners, providers, local education authorities, family members, or friends to help in conducting and informing the SIS assessors. SIS assessors verify that selected individuals, other than those selected by the Participant, are knowledgeable and appropriate to participate in the SIS interview.
 - 35.1.3 **SIS Score Is Assigned Based Upon Assessed Needs:** Based upon SIS assessment, the Participant is assigned a SIS score.
 - 35.1.4 **Service Package Identified:** Based on the SIS score assignment, a Participant will be assigned a service package reflected quarterly. Effective February 1, 2013, any changes to a Participant's service package will occur on the Participant's anniversary date. The new service package is then translated into a quarterly resource allocation. Until a Participant has a SIS assessment, service packages will be based on prior year authorizations. As of July 1, 2011, in accordance with RIGL 40.1-21-4.3(7) and RIGL 40.1-26- 2(9) all resource allocations will be allocated on a quarterly basis.
 - 35.1.5 **DDO Selection or Decision to Self-Direct:** Once the Participant is assigned a resource allocation, they will either make a selection of which DDOs will provide services to them or the Participant will make the decision to self- direct services.

Section 36.0 *Supports Intensity Scale*

- 36.1 When a Participant has been determined by the Department to be eligible for services, the Supports Intensity Scale and Rhode Island Supplemental SIS Questions shall be completed by the Department's SIS assessors.

- 36.1.1 Each Participant shall be reassessed no less than every three (3) years. Participants may be reassessed more frequently due to major life changes.
- 36.1.2 Based upon the Department's assessment, the Participant shall be notified in writing of his/her Service Package that the Department will make available to the Participant to purchase needed
- 36.1.3 supports and services from the set of services authorized by these regulations.

Section 46.0 *Self-Directed Care and Services*

46.01 Self-directed services offer the Participant and their family the opportunity to hire, train, and

supervise employees tasked with providing direct services. Self-directed services support the Participant in allocating funds as outlined in the Individual Service Plan and facilitate employment of staff by the Participant. These services should support a Participant's ability to live in his/her home or the family home; be cost-effective arrangements for obtaining supports, applying public, private, formal, and informal resources; and be consistent with goals established in the Participant's ISP.

46.02 Self-directed services shall include, but are not limited to:

1. Fiscal Intermediary Services;
2. Support Facilitator Services;
3. Participant Directed Goods and Services.

Fiscal Intermediary Services

46.03 The Participant's fiscal intermediary shall be a licensed DDO authorized to receive and distribute support funds or Participant directed goods or services on behalf of a Participant in accordance with the Participant's Individualized Service Plan.

46.03.01 Services include reimbursing individuals and/or DDOs on behalf of the Participant, acting as a payroll agent for the Participant, providing a monthly expenditure report to the Participant detailing expenditures of funds against their pre-approved budget, providing the Participant with the results of statewide criminal background checks for all persons providing direct care for the Participant and statewide criminal background checks for all appointed representatives.

108

46.03.02 The Fiscal Intermediary also provides the information and skills trainings needed to manage one's own care in the areas of rights and responsibilities of both the Participant and worker; recruiting and hiring workers; developing schedules and outlining duties; supervision and evaluating workers; how to access the services and goods identified in the Individual Service and Spending Plan; managing the monthly budget, assists with completion of necessary paperwork and helps the Participant ensure that his/her rights and safety are protected.

46.04 The Fiscal Intermediary is responsible to complete a Medicaid Provider Participation

Agreement with the Rhode Island Executive Office of Health and Human Services (“EOHHS”). In addition, the Fiscal Intermediary must complete all provider enrollment forms with the EOHHS Fiscal Agent, on the forms and in the format specified by EOHHS.

46.05 The Fiscal Intermediary shall meet with any individual requesting information regarding how to develop and administer his/her ISP and shall provide, at a minimum, the following information:

- a) The individual's role, responsibilities, and rights in contracting with the Fiscal Intermediary.
- b) The need for a Bureau of Criminal Investigation Check (BCI) on any person who has been identified on the Application as assisting the individual to administer his/her ISP. The individual may not allow any person to assist him/her to administer the ISP, or employ any person who has a criminal record of child or client abuse, a felony involving physical violence, or a conviction for fraud, burglary, or embezzlement.
- c) The Fiscal Intermediary shall inform the individual of any training requirements of direct support professional and any other training opportunities that are available for the individual and the direct support professionals.
- d) Unallowable Costs as determined by Medicaid and the Department which are included in the Department’s Technical Bulletins.
- e) The Medicaid Cost of Care requirements.
- f) Department reporting requirements.
- g) Forms that the individual will be expected to sign and an explanation of each form.
- h) The services that the Fiscal Intermediary will provide.
- i) The resources available to the individual in the event that the individual wishes to file a complaint.

46.06 If an individual chooses to administer his/her ISP using the Fiscal Intermediary, a contract shall be signed between the individual and the Fiscal Intermediary outlining the parties’ respective responsibilities and the monthly fee to be paid to the Fiscal Intermediary.

46.07 In addition to the ISP, the individual must submit a budget to the Department that includes the types of services that will be purchased, the hourly or per unit cost, the time period of the service and the quarterly cost. The budget shall include the cost of the Fiscal Intermediary's services.

46.08 The Fiscal Intermediary shall submit electronic billing for actual costs for services approved in the ISP to the EOHHS Fiscal Agent.

109

46.09 The Fiscal Intermediary must establish an accounting and information system which records

the receipt of individuals' funds from the Department, maintains individuals' accounts, and manages and tracks the receipt and disbursement of funds. This accounting system shall be maintained in accordance with Generally Accepted Accounting Principles. The Fiscal Intermediary shall maintain financial, program, individuals' and support service professionals' files and all required documentation for a period of not less than seven (7) years.

46.10 The Fiscal Intermediary shall complete the following:

46.10.01 Prepare the Individual's Start-Up Packet and distribute it to the individual. This packet will include the following, updated as appropriate as forms are changed, and shall include any new forms that will be required:

- a) IRS Form SS-4; Application for Employer Identification Number
- b) IRS Form 2678; Employer Appointment of Agent
- c) IRS Form 8821; Tax Authorization
- d) Any State required forms, (i.e. Workers Compensation)
- e) Instructions regarding the process for completing and submitting the required forms to the Fiscal Intermediary for filing
- f) Any rules and regulations governing employment

46.10.02 Obtain Federal and State Approval to be the Fiscal Intermediary for Individuals

- a) File for a separate Federal Employer Identification Number (FEIN) for each individual for the purpose of withholding, filing and depositing individual's Federal employment taxes and insurance using the IRS Form SS-4: *Application for Employee Identification* and maintain a copy in the client's file.
- b) File a completed and signed IRS Form 2678: *Employer Appointment of Agent* along with a letter requesting approval to be the individual's employer agent in accordance with IRS Rev. Proc. 70-6 for each individual and maintain a copy in each individual's file. The Fiscal Intermediary shall retain a copy of the IRS approval notice in the individual's file. The Fiscal Intermediary may submit a number of individual employers' IRS Forms 2678 under the same approval request letter, as long as the letter references each individual employer.
- c) File a completed and signed IRS Form 8821, Tax Authorization for each individual and maintain a copy of the form in each individual's file.
- d) Complete a business application and registration for the State of Rhode Island, Workers Compensation, for the applicable number of employees.

110

- e) Complete and file any other appropriate state forms for an individual to be recognized as an employer for income tax, employment tax, workers compensation, and unemployment insurance.

46.10.03 Notify the employer of the responsibilities of the Fiscal Intermediary and delineate the responsibilities of the individual as an employer.

46.10.04 Provide a form for the employer to document training of potential employees related to the work that will be done as a direct support professional. All mandatory training will be tracked and documented by the Fiscal Intermediary.

46.10.05 Provide the employer with a list of non-reimbursable items.

46.10.06 Prepare an Employee Packet and distribute it to the individual that includes, but is not limited to:

- a) Employment Application
- b) Emergency Notification Form
- c) Statement of Confidentiality
- d) The Immigration and Naturalization Service (INS) Form I-9; *Employment Eligibility Verification Form*
- e) IRS Form W-4; *Employee's Withholding Allowance Certificate*
- f) IRS Notice 797; *Possible Federal Tax Refund Due to the Earned Income Credit (EIC)*, if applicable
- g) IRS Form W-5; *Earned Income Credit Advanced Payment Certificate*, if applicable
- h) Timesheet that the direct support professional is expected to complete on a weekly basis
- i) Bureau of Criminal Investigation Disqualifying Information
- j) Information regarding the IRS rules for the treatment of employment taxes for certain family members
- k) Instructions on how and when each form (including the timesheet) should be completed by the individual and/or the direct service worker and the copies of forms that the individual should retain for their records

46.10.07 Payment of Direct Support Professionals

- a) The Fiscal Intermediary shall ensure that no person shall be hired by an individual prior to the completion of a Bureau of Criminal Identification check; prior to the verification of all needed licenses, including a driver's license, proof of insurance, and proof of vehicle inspection certificate.
- b) The Fiscal intermediary shall document that employment and reference checks were completed by the individual for potential employees. Said documentation shall include, but not be limited to: the name of the person called for a reference, the telephone number, the date called, the company name, and the reference provided.
- c) The Fiscal Intermediary shall obtain assurances from the individual that any non-related person or agency providing supports is not named as a beneficiary on the life insurance policy(ies) of the individual with developmental disabilities.
- d) The Fiscal Intermediary shall maintain a record of any formal connections an employee or potential employee has with any entity(ies) providing services to the individual with developmental disabilities. If there is a formal relationship (i.e. board member or an employee of an agency providing support to the individual with developmental disabilities), then this relationship should be stated in writing by the potential employee at the time of the interview, or when such relationship begins (subsequent to employment). In addition, the Fiscal Intermediary shall obtain from the individual notice of any family relationship with any potential employee to be

hired by the individual prior to the actual hiring.

e) Develop and implement a timesheet for direct support professionals.

f) Distribute, collect, and process direct support professionals' timesheets based upon an agreed-upon time period (i.e. weekly, bi-weekly, semi-monthly, monthly).

g) Ensure that the individuals' direct support professionals are paid hourly rates and overtime pay, when applicable, in accordance with Federal and State Department of Labor FLSA rules and regulations.

h) Compute, withhold, file and deposit federal and state income tax, if requested by the individual's direct support professional and agreed to by individual employers in compliance with IRS rules.

i) Compute, withhold, and deposit FICA and FUTA taxes using the IRS Form 940; Employer's Annual Federal Unemployment (FUTA) Tax Return and IRS Form 941; Employer's Quarterly Federal Tax Return (filing in the aggregate under the Fiscal Intermediaries separate FEIN) in accordance with IRS Notice 95-18. Compute, withhold, and deposit any state taxes and unemployment insurance taxes in accordance with State policies and procedures,

j) Ensure that FICA and FUTA withholdings are done appropriately in accordance with IRS rules and regulations when family members are direct support professionals.

k) Prepare and distribute payroll checks for direct support professionals in accordance with the agreed upon time frame with 112

the individual employer. The payroll checks shall include a pay stub that reports the hours worked, gross wages, withholdings by type, and net salary for the current period and year-to-date. The payroll check will be sent to the individual employer or the direct support professional, as agreed to by the individual and the Fiscal Intermediary. The Fiscal Intermediary shall offer direct support professionals the option of having their paychecks directly deposited in their bank.

l) Inform direct support professionals of the availability of receiving advanced Federal Earned Income Credit (EIC) payments and process advanced payments when applicable (i.e. include IRS Notice 797 in the Employee Start-up Packet).

m) File and distribute IRS Forms W-2 and Forms W-3 on behalf of individuals for each of their direct support professionals who have earned the cash wages thresholds for employment taxes (FICA and possibly FUTA) and/or had Federal and State income taxes withheld in the calendar year per the IRS rules/instructions for employer agents. Ensure that these forms are completed in accordance with IRS rules for agents.

n) Establish and implement a process for identifying, computing and

issuing refunds to direct support professionals (for the employee contribution) and the individual's budget (for the employer contribution) of any over collection of Federal employment taxes (FICA and/or FUTA) for direct support professionals who do not earn the Federal cash wage threshold amounts from a single employer during the calendar year.

o) Process all judgments, garnishments, tax levies, or any related holds on an employee's funds as may be required by State or Federal laws.

46.10.08 The Fiscal Intermediary shall comply with all Federal and State income and employment taxes, statutory benefits, and labor laws related to the employment of their direct support professionals. All tasks and responsibilities shall be performed by the Fiscal Intermediary in accordance with all applicable Federal and State laws, rules and/or regulations.

46.10.09 Determine the requirements for workers compensation for household employees in the state and facilitate the purchase of worker's compensation insurance for individuals' direct service professionals and process invoices for premium payments. The Fiscal Intermediary shall verify and document that all individual employers have sufficient workers' compensation coverage for all of the direct support professionals that they hire.

46.10.10 Develop and implement a process of documenting any relevant training that the direct support professional has at the time of hire, and any

113

additional training that the direct support professional completes after the date of hire.

46.10.11 The Fiscal Intermediary shall obtain Medicaid Cost of Care information from the individual. Should a Medicaid Cost of Care apply for an individual, the Fiscal Intermediary shall collect the Cost of Care amount from the individual on a monthly basis.

46.10.12 The Fiscal Intermediary shall monitor the expenses reported by the individual to ensure that funds will be available for the full time frame of the quarterly authorization. Should the Fiscal Intermediary find that funds are being expended at an accelerated pace, it will notify the individual/responsible person of this finding and work with the individual to stay within his/her budgeted resource allocation.

46.10.13 The Fiscal Intermediary shall keep an accounting of all services received by the individual, including the dates and types of service.

46.10.14 On a quarterly basis, the Fiscal Intermediary shall prepare a report for the individual as to the individual's financial status.

46.10.15 The Fiscal Intermediary shall submit to the Department annual audited financial statements, audit findings and any recommendations, including corrective action plans, and any supplemental schedules, as may be required by the Department. The Fiscal Intermediary shall disclose all Related Party Transactions in the notes to the annual audited Financial Statements.

46.11 The Fiscal Intermediary shall file an "Integrated Community Employment Income Disregard

Form" with the Medicaid Authority on behalf of the individual. The Fiscal Intermediary shall file forms as necessary based on any changes in the employment situation.

46.12 Should the individual subcontract with an organization/business that should be licensed by the Federal or State government, the Fiscal Intermediary shall verify that the organization/business has the necessary license.

46.13 The Fiscal Intermediary shall account for any corrected or previously omitted services/encounters reported and process a recoupment to correct payment(s).

46.14 The Department shall have the right to request any and all information pertaining to assets, liabilities, revenue, expenditures, records, contracts and any other financial, program, personnel, or administrative data. The Fiscal Intermediary shall submit the information requested to the Department within the time frame specified.

46.15 The Department, EOHHS, DHS, CMS and its designated representatives shall have the authority to review all Fiscal Intermediary records, reports of financial data, at any time. The Department, EOHHS, DHS, CMS, or its designated representatives shall have the right at all times to inspect the work performed or being performed under the DDO's license.

46.16 The Fiscal Intermediary shall not undertake any work that represents a legally cognizable conflict of interest or is otherwise contrary to State and Federal law or regulation. The Fiscal Intermediary shall fully and completely disclose any situation and/or relationship that may present a legally cognizable conflict of interest at the time of applying for licensure and/or as such situations occur.

Section 47.0 *Community-Based Support Services*

35.2 Community-based support services and supports provide non-residential supports and services to enable Participants to live with their families, in their own homes or in the community with non-residential supports and services. Community based supports include, but are not limited to, personal care, homemaking, transportation (excluding transportation to and from Day Program Services), respite, assistive technology and minor home modification. These supports serve to augment the Participant's and/or family's existing support system.

Components

35.3 Community-based support services shall include the availability of direct support and assistance up to forty (40) hours per week for Participants, or for the relief of the care giver, in or out of the Participant's residence, to achieve and/or maintain the outcomes of increased independence, productivity, enhanced family functioning, activities of daily living, homemaker and medical supports not otherwise covered by the Participant's health plan, and inclusion in the community, as outlined in his/her ISP.

- 35.4 Community-based support services shall not supplant non-paid natural supports nor do they replace meaningful day activities and are available to Participants who have been determined to meet clinical necessity and appropriateness requirements, and are at risk due to situational factors.
- 35.1 Community-based support services may be delivered one-on-one to a Participant or shared. Community-based support services shall be clinically appropriate and clinically necessary, as described in the ISP, for a Participant to live in the Participant's home or the family home.
- 35.2 The DDO providing community-based support services shall provide, but not be limited to, the following services:
- 35.2.8 Expand and develop support options outside the immediate family to individuals such as neighbors, clergy, co-workers (includes non-paid natural supports);
 - 35.2.9 Connect the Participant with social services and mental health services;
 - 35.2.10 Link the Participant to resources for locating and accessing affordable housing;
 - 35.2.11 Facilitate the Participant's access to financial assistance, such as budgeting finances, identifying Social Security benefits, Medicaid/Medicare benefits, other local, state or federal program supports;
 - 35.2.12 Facilitate access to legal and/or advocacy services;
 - 35.2.13 Support the Participant in maximizing work incentives and other benefit options;
 - 35.2.14 Find and facilitate transportation supports;
 - 35.2.15 Find resources for job support/education/training, such as supported employment opportunities, finding mentors, and

- obtaining information on programs offered through higher education institutions;
- 35.2.16 Find assistance on Assistive Technology/Adaptation;
 - 35.2.17 Locate and facilitate access to health care, such as home health care, free clinics, and state programs;
 - 35.2.18 Help to find daytime supports.
- 35.3 Community-based support services may be provided by professional staff which means and includes the delivery of community-based support services not otherwise covered by the Participant's health plan and provided by a degreed psychologist, a licensed psychiatrist, a licensed physical therapist, a licensed occupational therapist, a licensed speech language pathologist, or a registered nurse.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.