

INDIVIDUAL SUPPORT PLANNING FOR CLIENTS OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS) IN MASSACHUSETTS

Prepared by the Mental Health Legal Advisors Committee
February 2011

WHAT IS AN INDIVIDUAL SUPPORT PLAN

What is individual support planning?

Individual support planning is an on-going process of establishing goals for individuals consistent with the outcomes described in the quality of life areas set forth at 115 CMR 6.23(2) and of identifying supports and strategies that will promote achievement of those goals.¹

What principles govern the development of ISPs?

The following principles govern the development of ISPs:

- respect for the dignity and rights of each individual;
- humane and adequate care and treatment;
- self-determination and freedom of choice to the person's fullest capacity;
- the opportunity to live and receive services in the least restrictive and most typical setting possible;
- the opportunity to undergo typical developmental experiences, even though such experiences may include an element of risk; provided, however, that the person's safety and well-being will not be unreasonably jeopardized; and
- the opportunity to engage in activities and styles of living which encourage and maintain the integration of the individual in the community through individualized social and physical environments.²

Who should be involved in the development of the ISP?

The following people should be involved in the development of the ISP:

- the individual;
- his or her family, guardian, and designated representative, if any;
- DDS; and
- providers of supports to the individual.³

¹ 115 CMR 6.20(3)(b).

² 115 CMR 6.20(3)(a).

³ 115 CMR 6.20(3)(b).

What do DDS regulations say about participation in the ISP process?

The ISP must be developed with the fullest possible participation of each of the following persons, collectively referred to as the "team":

- the individual;
- members of the individual's family;
- the individual's guardian, if any;
- the individual's DDS service coordinator;
- representatives of providers of supports to the individual, provided that, at the individual's, guardian's, or family's request, the service coordinator may limit the participation of a provider representative to those portions of the ISP meeting which concern the supports being provided by the provider;
- the individual's designated representative and others who provide friendship and support to the individual or whom any of the participants consider necessary, unless the individual objects to such persons' participation.⁴

Who gets an ISP?

The following people get a DDS ISP:

- All individuals who have special eligibility pursuant to 115 CMR 6.05. An individual who is specially eligible who is not in need of or is refusing any supports may decline an ISP; however, an ISP shall be offered to such individuals on an annual basis;
- All individuals who receive individual or residential supports provided or purchased by DDS and who do not reside with their family; however, for a period of 12 months following an individual's 22nd birthday, an ISP need not be developed if the individual has an Individual Transition Plan which calls for the individual's transition to another residential situation;
- All individuals who receive day or employment supports provided or purchased by DDS;
- All individuals receiving day habilitation services funded in whole or in part by DDS;
- At the request of the individual or his or her family, guardian, or designated representative, individuals receiving other supports provided, purchased or arranged by DDS; including, but not limited to, service coordination, referral, Division of Medical Assistance funded adult foster care, transportation, or vocational services funded by the

⁴ 115 CMR 6.21(1).

- Massachusetts Rehabilitation Commission; and,
- With the agreement of the individual or his or her guardian, any individual whom the Area Director determines would benefit from an ISP.⁵

What are DDS's responsibilities regarding the ISP process?

The responsibilities of the service coordinator in the ISP process are as follows:

- To meet with the individual, and to consult with the individual's guardian, if any, with whom an ISP is to be developed. The meeting must occur within 15 days of the initiation of supports or at least six weeks prior to the projected date of the ISP meeting. During the meeting, the service coordinator should explain the purpose of the ISP and the ISP meeting, should develop an understanding of the individual's goals and current circumstances, and should determine, along with the individual and the guardian, the issues for discussion at the ISP meeting, who should be invited to attend, and when and where the ISP meeting should be held;
- To consult with the individual's family and guardian, regarding the purpose of the ISP, the process through which the ISP will be developed, the individual's goals and current circumstances, the issues to be discussed at the ISP meeting, their role in the development, approval, implementation, and review of the ISP, and scheduling of the ISP meeting;
- To determine, with the individual and other team members what assessments or professional consultations are necessary for the development, modification, or review of the ISP. This determination should be done within 15 days of the initiation of supports or at least six weeks prior to the projected date of the ISP meeting. If resources are available, the service provider should arrange for the assessments and consultations which are not the responsibility of any current provider;
- To provide written notice to the individual and other members of the ISP team, of the date, time, place, and purpose of each ISP meeting at least 30 days in advance of the meeting;
- To inform team members of the availability of assessments and consultations in advance of the ISP meeting and, with appropriate authorization, to make them available upon request to the individual and other team members at least seven days in advance of the meeting;
- To call together and facilitate meetings for the development,

⁵ 115 CMR 6.20(4)(a)-(f).

modification, and review of the individual's ISP in accordance with the appropriate timeframes;

- To ensure that ISP meetings are conducted in accordance with all regulations and in a manner which promotes meaningful participation by the individual. The service coordinator should also arrange for reasonable assistance and accommodations to enable the individual and other members of the team to participate meaningfully in the development, review, and modification of the ISP;
- To monitor the implementation of the ISP and the adequacy and appropriateness of supports being provided based on the requirements in the ISP;
- To coordinate the provision of supports to the individual in accordance with the ISP; and
- Twice a year, to evaluate and report to the individual and other team members on the implementation of the ISP and the need for any modifications. The service coordinator should also assess the satisfaction of the individual and the individual's family and guardian with the supports provided. The service coordinator's assessment shall be included in the individual's record.⁶

What are the provider's responsibilities in the ISP process?

The responsibilities of the provider in the ISP process are:

- To complete assessments or professional consultations of the individual and forward them to the individual's service coordinator at least ten days before the ISP meeting;
- To work collaboratively with the individual and other team members to identify the individual's goals, and to develop an ISP which is likely to be effective in assisting the individual to achieve those goals; (c) Within 15 working days of the ISP meeting, to develop and forward to the service coordinator for inclusion into the ISP, strategies for providing the supports identified during the ISP meeting;
- To implement the ISP by providing the agreed upon supports;
- To report on the supports being provided, as requested by the individual, guardian, and family, as long as the service coordinator agrees the requests are reasonable, but at least every six months; and
- To promptly notify the service coordinator of issues or circumstances which may affect the appropriateness of the current ISP or which may call for the revision of the ISP.⁷

⁶ 115 CMR 6.21(5)(a)-(j).

⁷ 115 CMR 6.21(6) (a)-(f).

What assessments does DDS rely on in developing an ISP?

DDS looks at a number of assessments. They are included in the Eligibility Report and are reviewed by the service coordinator annually. They should be updated annually or as needed to reflect changes in the individual's abilities and circumstances:

- an assessment of the general type of supports needed by the individual;
- an assessment of the individual's ability to make informed decisions regarding his or her financial and personal affairs; and
- an assessment of the individual's financial status and eligibility for services or benefits from other entities such as the Social Security Administration.⁸

⁸ 115 CMR 6.22(3)(a). For more requirements regarding assessments, see 115 CMR 6.22(3)(b)-(d).

ASSESSMENTS

What if someone would like an additional assessment done?

The regulations provide for additional assessments:

The service coordinator shall determine, together with the individual and other team members, whether additional assessments and professional consultations would benefit the individual. Additional assessments will also be considered if they will assist the team in identifying the individual's strengths and limitations related to his or her ability to live with greater independence and social competence in less restrictive environments. Such assessments may include, but shall not be limited to, an assessment of the individual's daily living skills, communication skills, psychological status, social network, and whether the individual would benefit from assistive technology.⁹

Who would do such an assessment?

Assessments and consultations shall be performed by the provider who has primary responsibility for providing supports in the area to be assessed. Assessments which are not within the responsibility of any of the current providers shall be arranged by the service coordinator and provided or purchased by the Department, if resources are available.¹⁰

How can the individual, family or guardian get more info on an assessment being proposed?

If requested, the service coordinator shall meet with the individual, his or her guardian, and the individual's family in advance of the ISP meeting to discuss the assessments and consultations. If feasible and requested, the service coordinator can also arrange an explanatory meeting with the person who will perform the assessment or consultation.¹¹

Where can I find more information on assessments?

More information regarding assessments is available in the following publication:

- The Arc of Mass., Building a Future: A Handbook for Families (3rd Ed.

⁹ 115 CMR 6.22(4)(a).

¹⁰ 115 CMR 6.22(4)(b).

¹¹ 115 CMR 6.22(5).

2006), <http://thearcofmass.org/resources/children-families/>, at 16-17.

Why is an ISP meeting held?

At the ISP meeting, the service coordinator, the individual, and other members of the ISP team develop the ISP.¹²

When is an ISP meeting convened?

Once an individual begins receiving supports which required the development of an ISP, the service coordinator has 60 days to convene a meeting to develop an ISP. An ISP meeting is then convened every two years thereafter.¹³

What should the ISP strive to promote?

The ISP must promote the following ends:

- The **rights and dignity** of the individual.
- The individual's ability to pursue **individual control** over the range of decisions in his or her life.
- The individual is a **member of the** larger, integrated, public **community** and can function like any other member of the community
- The individual has opportunities and support to develop, sustain, and strengthen varied and meaningful **relationships** with family, friends, neighbors and co-workers.
- The individual can pursue **personal growth and accomplishments**.
- The individual enjoys **health, safety, and economic security**.¹⁴

What must be discussed in the ISP meeting?

The following topics must be discussed in the ISP meeting:

- the individual's goals and desires;
- recent events that may affect the individual's health, safety, or goals;
- the individual's current circumstances, including home, employment,

¹² 115 CMR 6.23(1).

¹³ 115 CMR 6.23(3).

¹⁴ 115 CMR 6.23(2).

- and supports, and any needed changes;
- identification of goals in order to identify needed supports; and
- development of the ISP.¹⁵

What must the ISP include?

The ISP should include:

- specific goals;
- the supports the individual needs to reach those goals, without regard to the availability of such supports;
- the availability of those supports;
- who is responsible for providing those supports; :
- the settings in which the strategies will be implemented and the supports provided;
- how often and how much support is needed;
- the criteria for evaluating the effectiveness of such supports;
- strategies for meeting unmet support needs of the individual;
- team members' responsibilities for monitoring the ISP implementation, including the format and frequency of the monitoring; and
- the date of the next ISP review, which can be no later than one year from the date of the ISP meeting.¹⁶

What are some of the supports and strategies?

The strategies and supports should be the least restrictive possible. The strategies and supports may include but shall not be limited to:

- instruction in skills related to health and safety,
- self-care,
- communication,
- home living,
- work,
- leisure,
- social interactions,
- community use,
- self-direction and
- functional academics,
- provision of medical, dental and specialty services such as physical or occupational therapy, psychiatric or psychological services, and
- legal or advocacy services.¹⁷

¹⁵ 115 CMR 6.23(4).

¹⁶ 115 CMR 6.23(1), (4).

What are the distribution, approval and implementation requirements related to ISPs?

Within 30 days following the ISP meeting, Area or Facility Director or designee must review the ISP and approve or not approve it, in part or in whole.

Then DDS mails the ISP to the individual, family, guardian, designated representative and providers.

The individual and his or her family and guardian has a right to a meeting with the service coordinator to explain the ISP. The individual also has appeal rights, discussed below.

If the Area or Facility Director (or designee) doesn't approve the ISP, he or she must explain why to the service coordinator and suggest changes. If the suggested changes would be modifications of the ISP, the service coordinator must talk to the individual and other team members regarding the proposed changes and may reconvene the ISP meeting to discuss revising the ISP.

DDS will ask the individual, his or her guardian and any family members who helped develop the ISP will be asked to either approve the ISP or appeal it.

How often is an ISP reviewed?

The ISP must be reviewed and updated annually. The individual or other team members may request more frequent reviews depending on the individual's desires, goals, needs, and circumstances.¹⁸

What is the process for review of an ISP?

The process may vary.¹⁹ Within one year of the date on which an ISP was developed, the service coordinator must convene a meeting of the team to review and update the ISP or develop a new ISP. If there are any new assessments or reports, the service coordinator must distribute them to help in the revision process.²⁰

¹⁷ 115 CMR 6.23(4).

¹⁸ 115 CMR 6.24(1)

¹⁹ See 115 CMR 6.24(2).

²⁰ See 115 CMR 6.24(2).

What should one look for when reviewing an existing ISP?

One should look at:

- the satisfaction of the individual and others, including the individual's family and guardian;
- progress toward the ISP goals; and
- any significant changes in the individual's circumstances or abilities, including:
 - changes in the eligibility;
 - changes in physical or mental health, including a review of the appropriateness and effectiveness of current medications and behavior modification procedures;
 - changes in financial resources;
 - changes which may affect the individual's priority for a particular support;
 - changes in ability to make informed decisions regarding his or her personal or financial affairs; and
 - changes in the availability of needed supports;
- whether the goals identified in the ISP are consistent with the individual's current desires and needs and whether the strategies and supports identified in the ISP continue to be the least restrictive, appropriate and available strategies and supports to promote those goals; and
- the continued effectiveness and appropriateness of any legal authorizations.²¹

²¹ See 115 CMR 6.24(2).

MODIFYING AN ISP

When must an ISP be modified?

The ISP shall be modified when necessary to reflect changes in the individual's goals and needs, to promote a quality of life for the individual or to provide for the least restrictive, most adequate and appropriate supports consistent with the individual's desires and needs.²²

What are considered ISP modifications, subject to the process of DDS regulation, 115 CMR 6.25?

The following changes, unless proposed as part of the annual review process, are ISP modifications:

- (a) Any change in the goals;
- (b) Any change in the strategies, or in the types of supports, or in the duration and frequency of such strategies and supports, or in the strategies that will be used to address unmet support needs;
- (c) A change in the priority assigned to the individual's needs where such change will affect the availability of supports;
- (d) Initiation of a behavior modification plan or modification of any part of a behavior modification plan involving the use of an aversive or intrusive technique;
- (e) A change in the location of a individual's residence from a DDS facility or a home operated by DDS or by a provider of residential supports licensed by DDS to another such facility or home. However, if the change in residence is the result of reasons not related to the individual, then the change in residence is not considered a modification.²³

Who can seek an ISP modification?

The following people can request a modification:

- the individual;

²² 115 CMR 6.25(1).

²³ 115 CMR 6.25(2). Where the change in residence would not be considered a modification because it results from requirements for competitive procurement or termination of a provider's contract, the service coordinator shall nevertheless convene a meeting of the individual, family, guardian, and providers. The purpose of the meeting will be to exchange relevant information and to review the new provider's obligations under the ISP. If possible, such meeting shall take place in advance of the change in residence. 115 CMR 6.25(8).

- the individual's family and guardian, except that a request for modification by the individual's family will not be considered if the individual knowingly objects or if the individual's guardian objects;
- the DDS service coordinator; or a current provider of supports to the individual; and
- the individual's designated representative.²⁴

How do you seek an ISP modification?

One may seek a modification by contacting the service coordinator.²⁵

What happens if someone seeks an ISP modification?

If someone seeks a modification, the following must occur:

The service coordinator must convene a meeting as soon as possible but within 30 days of the request for the modification. The service coordinator should invite the individual, the individual's family, guardian, and designated representative, and providers.

The service coordinator may use his or her good judgment to abandon the modification meeting and any timeline related to the meeting, with the documented approval of the individual, the individual's family or the individual's guardian, as appropriate.²⁶ In the case of such a waiver, the modification may be implemented after it is reviewed by the DDS Area or Facility Director.²⁷

Within ten days after a modification meeting, or after waiver of such meeting, the DDS Area or Facility Director must review recommended modifications, and approve or disapprove them.

The service coordinator shall notify the team members invited to the modification meeting of the decision on the requested modification and of their right to appeal the modification, and shall, if applicable, issue a modified ISP.²⁸

²⁴ 115 CMR 6.25(3).

²⁵ 115 CMR 6.25(3).

²⁶ 115 CMR 6.25(5).

²⁷ 115 CMR 6.25(6).

²⁸ 115 CMR 6.25(7).

What if there is an emergency?

Where modifications are in response to emergencies involving a serious or immediate threat to the health or safety of the individual or others, the modification may be implemented immediately and the modification meeting may be postponed no more than 30 days after the emergency. The service coordinator shall notify all persons eligible to participate in the modification meeting of the emergency modification within one business day.²⁹

²⁹ 115 CMR 6.25(9).

APPEALING AN ISP

What are the reasons one may appeal an ISP?

DDS regulations set out the list of reasons one may appeal and it is worthwhile to look at the full list.³⁰

Among the questions regarding an ISP that may be considered on appeal are:

- Whether the assessments DDS performed or arranged to serve as the basis for developing or reviewing the ISP were sufficient;
- Whether the goals identified in the ISP promote the outcomes described in the quality of life areas.
- Whether the supports identified in the ISP are the least restrictive, appropriate and available supports to meet the ISP goals;
- Whether the use of behavior modification, medication, and limitations of movement are consistent with DDS regulations;
- Whether the ISP team recommendation regarding ability to make personal and financial decisions is consistent with the available evidence and whether the type of decision-making support recommended is consistent with DDS regulation;
- Whether the ISP was developed, reviewed, or modified in accordance with DDS regulation; and
- Whether the ISP is being implemented.³¹

Who may file an ISP appeal?

If the person doesn't have a guardian, an appeal may be filed by the individual for whom the ISP has been developed, his or her family, and designated representative.

If the person has a guardian, an appeal may be filed by the individual his or her guardian and designated representative.³²

How does one appeal an ISP?

To file an appeal, one must notify the DDS Regional Director in writing.³³

The appeal must be filed within 30 days of receiving the ISP. A party is presumed to have received the decision on the fifth day after it is mailed, unless

³⁰ 115 CMR 6.31.

³¹ 115 CMR 6.31 (3)-(9).

³² 115 CMR 6.32(1)(b).

³³ 115 CMR 6.32(2).

established otherwise.³⁴

Will the ISP be implemented pending appeal?

When possible and with the approval of the Area or Facility Director and all parties having a right of appeal, as well as the provider, the ISP or any portion of the ISP may be implemented prior to completion of the distribution and approval process.³⁵

What happens after the appeal is filed?

After the appeal is filed, DDS will hold an informal conference.

The Regional Director or designee shall hold an informal conference within 30 days of notification of the appeal.³⁶

DDS shall notify the individual, the individual's family, guardian, and designated representative, if any, the Area Director, and the service coordinator of the date of the informal conference.³⁷

What happens at the informal conference?

The purposes of the informal conference are:

- to resolve differences in the issues being appealed;
- to clarify issues for further appeal; and
- to determine the parties' agreement, if any, to the facts of the case.³⁸

What happens if we can't resolve the matter at the informal conference?

If the issues in dispute are not resolved at the informal conference, then you may petition the Commissioner, within 30 days of the conclusion of the informal conference, for a fair hearing.³⁹

³⁴ 115 CMR 6.32(3).

³⁵ 115 CMR 6.23(5).

³⁶ 115 CMR 6.33(1) (a).

³⁷ 115 CMR 6.33(1) (a).

³⁸ 115 CMR 6.33(1)(b). Except for statements of the parties that are reduced to an agreed statement of facts, all statements of the parties made during the informal conference shall not be considered in any hearing or court proceeding. 115 CMR 6.33(1)(c).

³⁹ 115 CMR 6.33(2)(a).