

ACCESSING SERVICES FROM THE MASSACHUSETTS DEPARTMENT OF MENTAL HEALTH

Prepared by the Mental Health Legal Advisors Committee
December 2011

TABLE OF CONTENTS

INTRODUCTION.....	2
APPLYING FOR SERVICES	5
DMH'S SERVICE AUTHORIZATION DETERMINATION PROCESS	14
APPEALS	17
ONCE I AM A DMH CLIENT: DMH SERVICES.....	23
TRANSITION AGE YOUTH AND ADULT SERVICES	29
CASE MANAGEMENT.....	31
CHILDREN'S BEHAVIORAL HEALTH INITIATIVE (CBHI)	33
DMH SERVICE PLANNING.....	36
WHEN THINGS CHANGE.....	47
GROWING UP.....	49

INTRODUCTION

What is the Department of Mental Health's mandate?

DMH operates pursuant to Massachusetts state statute, Mass. Gen. L. ch. 19,¹ and DMH regulations, 104 CMR.² DMH's statutory mandate is to provide treatment and services to citizens with long-term or serious mental illness(es), and to research into the causes of mental illness.³

To this end, DMH provides or arranges for DMH continuing care services to adults with serious and long term mental illness and children and adolescents with serious emotional disturbance who are determined eligible and are prioritized for such services.⁴

Are there mental health services that an individual can obtain without going through the DMH clinical service authorization (i.e. eligibility) process?

There are mental health services that an individual can obtain without going through the DMH clinical services authorization (i.e. eligibility) process.

Adults and youth can receive immediate evaluation and stabilization services from an Emergency Service Provider (ESP) crisis team to determine if hospitalization is needed. This service is available not only to DMH clients, but also to MassHealth recipients and uninsured individuals. A guide to ESP services is available on the DMH web site.⁵

Adults and youth can receive acute hospitalization services without being a DMH client. Acute hospitalization services are provided by general and psychiatric

¹ <http://www.mass.gov/legis/laws/mgl/19/gl-19-toc.htm>.

² <http://www.lawlib.state.ma.us/source/mass/cmr/104cmr.html>.

³ M.G.L. c. 19, § 1.

⁴ 104 CMR 29.03(1).

⁵ <http://www.mass.gov/eohhs/docs/dmh/publications/esp-resource-guide.doc>.

hospitals in Massachusetts and are paid for by private insurance, MassHealth, Commonwealth Care,⁶ and, partially, by Medicare (the same as other Medicare services).⁷

Adults and youth can receive outpatient mental health services without being a DMH client. These services are paid for by private and public insurance.

Adults and youth can contact hot lines and warm lines. Warm lines are run by and for consumers who need to talk to someone but are not in crisis. A list of hotlines and warmlines is available.⁸

Adults and youth can receive services from recovery learning communities (RLCs). RLCs are DMH consumer-run networks providing self-help, peer support, information and referral, advocacy and training activities. RLCs provide training in recovery concepts, advocacy forums, and social activities. A list of RLCs is available in DMH's Consumer and Family Resource Guide, at

⁶ Although private insurers are merely subsidized under Commonwealth Care.

⁷ Medicare covers care in specialized psychiatric hospitals which only treat mental illness when in-patient care is needed for active psychiatric treatment. As with care in a general hospital, Medicare pays for necessary in-patient hospitalization for up to 90 days per benefit period. Medicare beneficiaries who need to be in a hospital for more than 90 days are entitled to 60 lifetime reserve days which can be used only once in a life time.

Unlike care in a general hospital, care in a specialized psychiatric hospital is limited to a total of 190 days in a lifetime. Once this maximum has been reached, Medicare coverage of psychiatric hospitalization is exhausted and cannot be renewed. Moreover, if the patient is hospitalized in a psychiatric hospital on the first day he or she becomes eligible for Medicare, that day and any previous days of the psychiatric hospitalization are deducted from the psychiatric hospital days available in the patient's initial benefit period. (42 C.F.R. § 409.63.) This limitation can be hard for individuals who need frequent and/or lengthy in-patient treatment in a specialized hospital. If they require lengthy hospitalizations for treatment of physical ailments, no such limitation would be placed on the number of covered hospitalizations to which they would be entitled.

⁸ DMH, Consumer and Family Resource Guide, <http://www.mass.gov/eohhs/docs/dmh/publications/consumer-family-resource-guide.doc>, at 5-6.

<http://www.mass.gov/eohhs/docs/dmh/publications/consumer-family-resource-guide.doc> at 10.

Adults and youth can use the Peer Educators Project. The Project provides information on recovery from mental illness using a peer-to-peer model. The project also provides groups for recovery from dual diagnoses (Double Trouble in Recovery). The project may be contacted at (877) 284-6336. The phone component of this project is particularly liked by youth.

How is the DMH service system structured?

DMH has a central office in Boston. It divides the state into large geographic areas, each of which has a DMH administrative office. Within each DMH area, DMH also has a number of site offices. These site offices house case management services and are designed to be places accessible to DMH clients.

In 2010, DMH restructured its statewide system into three areas. Previously, there had been six areas. The three areas are:

- Metro Boston-Southeastern Area
- Metro Suburban-North East Area
- Western and Central Mass. Area

DMH publishes and periodically updates a DMH Resource Guide, available on the DMH web site at <http://www.mass.gov/eohhs/docs/dmh/publications/dmh-resource-guide.doc>.

This directory lists the DMH Areas, Service Site Offices, facilities, their staff, and their contact information. A listing of cities and towns allows you to determine the appropriate DMH Site Office for one living in that location.

APPLYING FOR SERVICES

Where are the provisions describing the DMH clinical service authorization (i.e. eligibility) process?

The provisions regarding DMH clinical service authorization (i.e. eligibility) are contained in DMH's regulations, 104 CMR 29,⁹ and further explained on DMH's web site, www.mass.gov/dmh in a document entitled "Interpretative Guidelines for 104 CMR 29.00: Determining Service Authorization for Children, Adolescents and Adults (Rev. Nov. 17, 2010)."¹⁰

What requirements must be met to receive DMH clinical service authorization?

The requirements are outlined in the Service Authorization Determination Criteria section of the Guidelines.¹¹

To be approved for DMH services, an individual must meet the clinical criteria as described at 104 CMR 29.04 (2)(a) or (2)(b), be determined in need of DMH services, and have no other means for obtaining the services, as described at 104 CMR 29.04 (3)(a), (b), (c) and (d), and DMH has available capacity to provide the services as described at 104 CMR 29.04 4(b).¹²

The clinical criteria are outlined in the Guidelines for

- adults,
- transition age youth, and
- children and adolescents.

⁹ Available at <http://www.mass.gov/eohhs/docs/dmh/regs/reg-104cmr29.pdf>.

¹⁰ Available at <http://www.mass.gov/eohhs/docs/dmh/services/interpretive-guidelines.doc>.

¹¹ Available at <http://www.mass.gov/eohhs/docs/dmh/services/service-determination.doc>.

¹² DMH, Service Authorization Determination Criteria, <http://www.mass.gov/eohhs/docs/dmh/services/service-determination.doc>.

How does one apply for DMH services?

The application process is explained in the “The Application Process” section of the Guidelines.¹³ That document answers the following questions:

- Who May Apply?
- Where Can an Application be Submitted?
- When is an Application Complete?
- When Will a Decision be Made?
- When is an Application Considered Withdrawn?
- When are Short-term Services Indicated?

The application forms are available at the DMH website.¹⁴

What clinical/educational documentation should accompany the application?

DMH recommends sending relevant medical and educational information and documentation. Sending this information will speed the review process. These may include:

- documentation of current attending psychiatrist’s diagnoses & formulation
- psychiatric assessments completed by a licensed clinician, particularly those completed within the previous six months;
- hospital admission/discharge reports if hospitalized, particularly those completed during the previous six months;

¹³ Available at <http://www.mass.gov/eohhs/docs/dmh/services/application-process.doc>.

¹⁴ <http://www.mass.gov/eohhs/gov/departments/dmh/service-application-forms-and-appeal-guidelines.html>.

- Individualized Educational Plan (IEP) if in place;
- clinical reports or consultations;
- psychological or neuropsychological evaluations;
- competency evaluations;
- psychosocial summaries;
- substance abuse summaries;
- medical summaries, including most recent physical examination;
- academic testing.

What other documents should be included with the application?

- Any current guardianship orders
- Authorized two-way release of information forms. A form should be completed for each past and current mental health service providers within the past two years including therapists, psychiatrists, hospitalizations, school contacts, and other providers.

What does the DMH Clinical Service Authorization Specialist do?

DMH Clinical Service Authorization Specialist will:

- review all of the information to determine if the applicant meets clinical criteria;
- send releases for additional information;
- speak to the applicant or guardian or speak to the parents, if the applicant is

- a minor;
- speak to some of the collaterals.

What else might the specialist do?

- The DMH Clinical Service Authorization Specialist may request, as necessary, a face-to-face meeting with the applicant and/or guardian to further discuss and assess the needs of the individual and family.¹⁵
- DMH may request a clinical evaluation of the applicant.¹⁶
- The Clinical Service Authorization Specialist will review applications with the DMH Area Medical Director or consulting Child Psychiatrist as needed for complex cases.¹⁷

What is the time frame for action to be taken on an application?

Within 20 days of receipt of the completed application, including any supporting documentation requested by the Department, the DMH Area Director or designee shall determine whether the individual meets DMH clinical criteria.¹⁸

Within 20 days of an individual being determined to meet DMH clinical criteria, the DMH Area Director or designee shall determine whether the individual needs DMH services as set forth in 104 CMR 29.04(3).¹⁹

If within 90 days of receipt of the application, any supporting documentation, personal interviews and/or clinical evaluations have not been received or completed, the Area Director or designee shall make a determination on the application based upon such information as is then available.²⁰ The Area Director or designee may extend this time period for good cause.²¹

¹⁵ 104 CMR 29.04(1)(d); DMH, The Application Process, <http://www.mass.gov/eohhs/docs/dmh/services/application-process.doc>.

¹⁶ 104 CMR 29.04(1)(d).

¹⁷ Metro Suburban Area Clinical Service Authorization Unit, Department of Mental Health Clinical Service Authorization PowerPoint Presentation (Nov. 2009), at 4 (available from MHLAC).

How can an applicant, parent or guardian check on the status of an application?

The applicant, parent or guardian may call the DMH Clinical Service Authorization Specialist for a status on their application.²²

What are the clinical criteria for adults?

An adult applicant must have a serious and long term mental illness that has resulted in functional impairment that substantially interferes with or limits one or more major life activities.²³ Serious and long term mental illness is a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, and that results in an inability to meet the ordinary demands of life.²⁴

What are the clinical criteria for youth?

To meet the clinical criteria, a youth must have a serious emotional disturbance.²⁵ Note that this criterion is different than the criterion for adults, which requires serious and long term mental illness. The serious emotional disturbance must have lasted or is expected to last at least one year.²⁶

¹⁸ 104 CMR 29.04(1)(e)1.

¹⁹ 104 CMR 29.04(1)(e)2.

²⁰ 104 CMR 29.04(1)(e)3.

²¹ 104 CMR 29.04(1)(e)3.

²² Project Interface, Accessing the Massachusetts Department of Mental Health (DMH), A Guide for Parents and Guardians on How and When to Access Services for Children, Adolescents and Young Adult, <http://www.projectinterface.org/guides/accessingDMH.php>.

²³ 104 CMR 29.04(2)(a).

²⁴ 104 CMR 29.04(2)(a)(1).

²⁵ 104 CMR 29.04(2)(b).

²⁶ 104 CMR 29.04(2)(b)(1).

The serious emotional disturbance must have resulted in functional impairment that substantially interferes with or limits the youth's role or functioning in family, school, or community activities.²⁷

The serious emotional disturbance must also meet diagnostic criteria specific that can be found in the Diagnostic and Statistical Manual of Mental Disorders (DSM) IV but not solely within the categories of developmental disorder (such as mental retardation or pervasive developmental disorder), cognitive disorder, mental disorder due to a general medical condition not elsewhere categorized or substance-related disorders.²⁸

How will eligibility requirements change as person reaches adulthood?	As an adult, an applicant for DMH services must need serious and long term mental illness, not serious emotional disturbance. As a consequence, ADHD is no longer a qualifying diagnosis.
Where can I find a listing of qualifying diagnoses?	A listing of the qualifying diagnoses for adults, transition age youth, and children and adolescents can be found in the Guidelines. ²⁹
What are some examples of diagnoses that do not qualify a person for DMH services?	Examples of diagnoses that do not qualify a person for DMH services include: <ul style="list-style-type: none">• Developmental Disorders including but not limited to Autism Spectrum Disorders, Mental Retardation, etc.• Medical Disorders including but not limited to Dementia, Brain Injury, etc.• Substance-induced disorders including but not limited to substance-induced psychotic or mood disorders, etc.

²⁷ 104 CMR 29.04(2)(b)(2).

²⁸ 104 CMR 29.04(2)(b)(3).

²⁹ DMH, Service Authorization Determination Criteria, <http://www.mass.gov/eohhs/docs/dmh/services/service-determination.doc>.

What constitutes a functional impairment for an adult?

Difficulties resulting from a primary major mental illness *must* persistently and substantially interfere with or limit role functioning in one or more major life activities and be expected to do so in the succeeding year. As described above, functional impairment in a person with a co-occurring disorder does not have to be attributed solely to an individual's qualifying mental disorder. Major life activities include basic daily living skills (e.g., eating, bathing, dressing, maintaining a household, managing money, accessing generic community services, taking prescribed medication) and functioning in social, family, and vocational/educational contexts. Risk of harm to self or others is also recognized as an index of functional impairment.³⁰

Functional impairments of episodic, recurrent, or continuous duration are included unless they are temporary and expected responses to stressful events in the environment. Operationally, functional impairment related to a qualifying behavioral, emotional or mental disorder will be evaluated using standards outlined in the Tennessee Adult Functional Assessment Tool.³¹

What constitutes a functional impairment for a youth?

Difficulties resulting from a serious emotional disturbance may substantially interfere with or limit a child or adolescent from achieving or maintaining one or more developmentally appropriate social, behavioral, cognitive, communicative or adaptive skills. Risk of harm to self or others is also recognized as an index of functional impairment. Functional impairment of episodic, recurrent and continuous duration is included unless it is a temporary and expected response to stressful events in the child or adolescent's environment.³²

³⁰ DMH, Service Authorization Determination Criteria, <http://www.mass.gov/eohhs/docs/dmh/services/service-determination.doc>.

³¹ DMH, Service Authorization Determination Criteria, <http://www.mass.gov/eohhs/docs/dmh/services/service-determination.doc>.

³² DMH, Service Authorization Determination Criteria, <http://www.mass.gov/eohhs/docs/dmh/services/service-determination.doc>.

Operationally, functional impairment related to a qualifying behavioral, emotional or mental disorder will be evaluated using standards outlined in the *Child and Adolescent Needs and Strengths* (CANS) assessment.³³

What is a CANS assessment?

Beginning in late fall of 2008, DMH began using the Child and Adolescent Needs and Strengths (CANS) assessment tool.³⁴ Clients receiving case management will have the CANS assessment completed as part of three month periodic reviews, and it will be administered at discharge from residential and inpatient programs.

The CANS assessment was identified as the assessment tool for the *Rosie D.* lawsuit, a federal court class action suit seeking community-based mental health services for Medicaid eligible youth with serious emotional disturbance in Massachusetts. The CANS assessment is also used for some Department of Children and Families clients. This cross-agency use will promote standardization of assessment and allow for cross-agency comparative analyses.

The CANS assesses in the following areas:

- Life Domain Functioning;
- Child Behavioral/Emotional Needs;
- Child risk Behaviors;
- Acculturation;

³³ DMH, Service Authorization Determination Criteria, <http://www.mass.gov/eohhs/docs/dmh/services/service-determination.doc>.

³⁴ Between July 1996 and late fall 2008, DMH Child/Adolescent Division used the Child and Adolescent Functional Assessment Scale (CAFAS) to assess functional impairment of children and adolescents applying for continuing care community services. DMH also administered the CAFAS at the time of Individual Service Plan (ISP) renewal/reauthorization.

- Transition to Adulthood;
- Child Strengths.³⁵

What are some practical tips about applying for DMH services?

- It is best to have a mental health clinician, preferably the treating psychiatrist, complete the DMH application
- The application will need to present evidence of an ongoing consistent qualifying diagnosis.
- It is likely best to focus on one diagnosis, rather than list multiple diagnoses.
- It is best to have treating clinicians' ongoing therapy/session notes to support the diagnosis.
- Hospital discharge reports, while helpful, may not be sufficient evidence of a diagnosis.
- If you don't believe you have adequate evidence/documentation, it may make sense to continue to accumulate such material and then apply.

³⁵ DMH, Service Authorization Determination Criteria, <http://www.mass.gov/eohhs/docs/dmh/services/service-determination.doc>.

DMH'S SERVICE AUTHORIZATION DETERMINATION PROCESS

How does DMH determine if an individual needs its services?

The DMH service authorization determination process is based on several things, which include:

- contact with the applicant and a legally authorized representative to review the request for service and current status;
- determination of whether the individual's needs can be met by a DMH service;
- assessment of whether the individual's current medical entitlements and insurance allows for the provision of appropriate services in the community; and
- assessment of the availability of appropriate services from other public or private entities.³⁶

What happens if DMH determines the individual needs DMH services?

If DMH decides a person needs DMH services, and that there is capacity in an appropriate service, DMH will find the person eligible.³⁷ If DMH determines that a person needs DMH services, but no such service(s) are available, DMH will notify the individual and his or her representative, and, if appropriate, the facility or program which submitted the application on the individual's behalf.³⁸ Then DMH will periodically contact the individual or representative regarding the individual's status and continued need for services. When the DMH service becomes available, DMH will offer to refer the individual to it.³⁹

³⁶ 104 CMR 29.04(3).

³⁷ 104 CMR 29.04 (4)(a).

What happens if DMH determines the individual doesn't need DMH services?

If it is determined that the individual does not need DMH services, the application will be denied and the Area Director or designee will so notify the individual and his or her representative, and, if appropriate, the facility or program which submitted the application on the individual's behalf.⁴⁰ The notice will:

- set forth the reasons for the denial;
- inform the individual and his or her representative of the right to appeal the denial of the application for DMH services; and
- inform the individual and the representative of other community services that may be available to meet his or her needs.⁴¹

What happens if there is a change of circumstances after being found not in need of DMH services?

A person may reapply if there is a change of circumstances.⁴² If an individual whose application was denied because of a determination that the individual does not need DMH services reapplies due to a change in circumstances within six months of such denial, he or she shall be presumed to continue to meet the clinical criteria for DMH services.⁴³

Can someone appeal a decision based on determination of capacity?

Decisions regarding the available capacity of DMH services are not subject to appeal.⁴⁴

³⁸ 104 CMR 29.04 (4)(b).

³⁹ 104 CMR 29.04 (4)(b)(1).

⁴⁰ 104 CMR 29.04(4)(d).

⁴¹ 104 CMR 29.04(4)(d).

⁴² 104 CMR 29.04(4)(e).

⁴³ 104 CMR 29.04(4)(e).

⁴⁴ 104 CMR 29.04 (4)(c).

How can an individual support an application for services from DMH?

In order to support an application for DMH services, one should obtain copies of the following types of records:

- outpatient clinical providers;
- discharge summaries from inpatient hospitalizations;
- school records; and/or
- testing or evaluations by clinicians, school psychologists or others.

Should the individual get the records and give to DMH or just sign releases for DMH to get them?

One can do either. If an individual signs releases, he or she should check to make sure that DMH reviewed them.

If an individual appeals a DMH denial of services and is preparing for a fair hearing, the individual should obtain any records that DMH reviewed or should have reviewed.

APPEALS

How does an individual appeal a determination that clinical criteria have not been met?

The first step in the appeal of an eligibility determination relative to clinical criteria is an informal conference with the DMH Area Director or designee. This conference may be requested within 10 days of receipt of the denial letter.⁴⁵

This step may be waived by agreement between the individual or legally authorized representative and the Area Director or designee, in which case the individual or representative may submit a request for reconsideration.⁴⁶

Within 10 days of receipt of a request for an informal conference, the DMH Area Director or designee shall hold an informal conference.⁴⁷ The individual may bring any other person to the conference.⁴⁸ If the issue not resolved at the conference, DMH must notify the individual or representative that a written request for reconsideration may be submitted to the DMH Area Medical Director.⁴⁹

An individual may submit a request for reconsideration to the Area Medical Director within 10 days of the informal conference or the agreement to waive such a conference.⁵⁰ The request must indicate the basis of the request for reconsideration and include any additional information that the individual wishes DMH to consider.⁵¹

⁴⁵ 104 CMR 29.16(3)(a).

⁴⁶ 104 CMR 29.16(3)(a).

⁴⁷ 104 CMR 29.16(3)(b).

⁴⁸ 104 CMR 29.16(3)(b).

⁴⁹ 104 CMR 29.16(3)(b).

⁵⁰ 104 CMR 29.16(3)(c).

⁵¹ 104 CMR 29.16(3)(c)(1).

The DMH Area Medical Director must issue a written decision within 20 days of receipt of the request, unless this time frame is extended by mutual consent.⁵² If the denial is sustained by the Area Medical Director, DMH must issue a written decision letter.⁵³ If the denial is reversed, DMH must issue a written decision and the Area Director must proceed with a determination of need for DMH services.⁵⁴

Individuals may appeal denials by the Area Medical Director to the Commissioner for a fair hearing.⁵⁵ An applicant must submit the petition for a fair hearing in writing within 20 days after receiving the Area Medical Director's decision regarding clinical criteria or within 20 days of completion or the waiver of the informal conference.⁵⁶

What are an appellant's rights in the fair hearing process?

The DMH regulations set out the rights regarding the fair hearing process. The DMH Commissioner or his or her designee appoints a hearing officer within 10 days of receiving the appeal petition. The Hearing Officer then schedules a hearing date agreeable to both parties.⁵⁷

Fair hearing governed by informal fair hearing rules of standard adjudicatory rules of practice and procedure at 801 CMR 1.02.⁵⁸

The hearing office must be impartial, although he or she may be a DMH employee. However, the Hearing Officer may not be under the supervision of any facility or office within the DMH service area in which the individual applying would be

⁵² 104 CMR 29.16(3)(c)(2).

⁵³ 104 CMR 29.16(3)(c)(3).

⁵⁴ 104 CMR 29.16(3)(c)(4).

⁵⁵ 104 CMR 29.16(5)(a)(1).

⁵⁶ 104 CMR 29.16(5)(b).

⁵⁷ 104 CMR 29.16(5)(b)(1).

⁵⁸ 104 CMR 29.16(5)(b)(1).

served or is currently being served.⁵⁹

The individual has the right to bring an attorney or another representative, at his or her own expense.⁶⁰

If the individual is unrepresented, but asks for help, or if the DMH Commissioner thinks it is in the individual's best interest, the Commissioner shall designate a client advocate to help the individual pursue the appeal.⁶¹

The appealing party can present any relevant evidence and may call and examine witnesses.⁶² The appealing party can examine all records held by DMH pertaining to the client.⁶³

The hearing is not open to the public. The individual may invite whoever he or she chooses to attend.⁶⁴

Within 20 days of the close of the hearing, the hearing officer prepares and submits to the DMH Commissioner a recommended decision which shall include a

⁵⁹ 104 CMR 29.16(5)(b)(3).

⁶⁰ 104 CMR 29.16(5)(b)(4).

⁶¹ 104 CMR 29.16(5)(b)(5).

⁶² 104 CMR 29.16(5)(b)(6).

⁶³ 104 CMR 29.16(5)(b)(7).

⁶⁴ 104 CMR 29.16(5)(b)(8).

⁶⁵ 104 CMR 29.16(5)(b)(9).

⁶⁶ 104 CMR 29.16(5)(b)(10).

⁶⁷ 104 CMR 29.16(5)(b)(11).

⁶⁸ 104 CMR 29.16(6).

⁶⁹ 104 CMR 29.16(7).

⁷⁰ 104 CMR 29.16(8).

summary of the evidence presented, findings of fact, proposed conclusions of law, a recommended decision, and reasons for the decision.⁶⁵

While the findings of fact are binding, the Commissioner may modify the conclusion of laws and decision for certain reasons.⁶⁶ The Commissioner must issue a decision within 15 days of receipt of the material and that decision is final.⁶⁷

Rehearing is allowed for certain grounds.⁶⁸

The standard of proof is a preponderance of evidence, which means that 51% of the evidence favors the conclusion. The burden of proof is on the individual found ineligible for DMH services – to prove that he or she is, in fact, eligible.⁶⁹

If the Commissioner concludes that the individual is ineligible for services, the individual has a right to judicial review pursuant to Mass. Gen. L. ch. 30A, § 14.⁷⁰ Chapter 30A sets out certain limited bases on which an appeal may be pursued.

If an individual is found ineligible at some point in the appeal process, is it worth pursuing a fair hearing?

There is always the possibility that an appeal may be successful so proceeding to fair hearing should always be at least considered. To mount a successful appeal it is important to provide clinical documentation (and, sometimes, expert testimony) in support of one's position. New evidence may be presented at the fair hearing stage (but should be shared with DMH prior to hearing). It may be worth consulting with a mental health advocate regarding the merits of the case when trying to decide whether to proceed to fair hearing.

One may want to exhaust through the fair hearing stage when the applicant is a young adult with a severe disability who may be eligible upon graduation from high school or turning 22, whichever comes first, to habilitative services from one or more state human services agencies under Chapter 688 of the Acts of 1983. EOHHS reviews the cases of such youth who have been denied by all EOHHS agencies and in rare instances assigned agency responsibility. However, this

process only occurs if the individual has exhausted the agency appeal processes.

Where can I find DMH eligibility decisions?

The Mental Health Legal Advisors Committee (MHLAC) has posted DMH eligibility decisions from between 2000 and 2009 on www.masslegalservices.org, the resource and research web site for legal services attorneys in Massachusetts. The decisions are available for public review. Each redacted decision is visible in its entirety, as well as a detailed summary of the decision. The decisions also are coded by keyword, so one may search them by topic. To access the decisions:

- Go to masslegalservices.org. (you don't need to login to access the decisions)
- On the left hand column, click on Disability Rights and Services.
- On the left hand column, click on Mental Health.
- On the left hand column, click on DMH Eligibility Decisions.
- Links to the decisions appear in the center of the screen.
- You may sort by date, author, or title.
- To view decisions on particular topics, you can click on the "User Generated Tags" at the bottom of the left column.
- You can also search for a keyword by entering the word in the top white box in the middle (Search Library box), click "Search" and decisions will appear below.

MHLAC is continuing to receive newly issued decisions from DMH. These will be posted as we receive and summarize them.

What do the DMH eligibility decisions tell us?

Many fair hearing decisions focus on whether or not the individual has a qualifying mental illness diagnosis. Often, the individual has also been diagnosed with a pervasive developmental disorder, such as an autism spectrum condition. The eligibility decision often turns on whether the symptoms displayed are those of

PDD or those of the mental health diagnosis. Similarly, the decision may turn on whether experts are able to attribute the symptoms to substance abuse or head injury as opposed to a mental health diagnosis.

A hearing officer will give credit to experts who do extensive evaluation and to those who know the individual well. The hearing officer will also credit a history of consistent diagnoses and documentation of symptomatology. It is important to be accurate as to what the eligibility criteria are (for ex., hospitalizations are not required, persistent unemployment not required).

ONCE I AM A DMH CLIENT: DMH SERVICES

What should one keep in mind when accessing DMH services? Important points to remember when accessing DMH services:

- Access to services depends on the availability of the particular service.
- Many services have waitlists.
- Short term services that address immediate needs may be provided while an eligibility application is pending.⁷¹
- Individuals are prioritized for services based on the urgency of their need.
- Assignment of a case manager is not a prerequisite for receipt of any DMH services.
- All services are voluntary.⁷²

What services does DMH offer its adult clients? DMH funded community services for adults include:

- Community Based Flexible Supports (CBFS) (which can include residential services);
- Program of Assertive Community Treatment (PACT);
- Clubhouses;
- DMH Case Management Services;
- Respite Care;

⁷¹104 CMR 29.04(1)(g). These services are available for up to 60 days. During this period, the application shall be considered “pending.” 104 CMR 29.04(1)(g). See also <http://www.mass.gov/eohhs/docs/dmh/services/application-process.doc> at 4.

⁷² Project Interface, Accessing the Massachusetts Department of Mental Health (DMH), A Guide for Parents and Guardians on How and When to Access Services for Children, Adolescents and Young Adult, <http://www.projectinterface.org/guides/accessingDMH.php>.

- Recovery Learning Communities;
- Homeless Support Services.⁷³

What services does DMH offer its minor clients?

DMH offers its minor clients:

- inpatient services;
- residential services;⁷⁴
- case management;⁷⁵
- Individual and family flexible support services
- adolescent day treatment;⁷⁶
- Young Adult Vocational Program;⁷⁷
- after-school programs;
- short term residential services;⁷⁸
- peer mentoring (recently available in Arlington, Westboro, Canton and Quincy areas)
- PhotoVoice (recently available in Framingham and Waltham);
- support groups;
- advisory boards.

⁷³ See DMH, Inpatient Study Commission, Description of Services, <http://www.mass.gov/eohhs/docs/eohhs/inpatient-commission/description-of-services-5-13-09.rtf>.

⁷⁴ Project Interface, Accessing the Massachusetts Department of Mental Health (DMH), A Guide for Parents and Guardians on How and When to Access Services for Children, Adolescents and Young Adult, <http://www.projectinterface.org/guides/accessingDMH.php>.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

What inpatient services does DMH offer to its minor clients?

DMH offers the following inpatient services to its minor clients:

- latency age and adolescent inpatient facilities
- Inpatient intensive residential treatment programs (IRTPs) serving youth ages 13-18. If a youth turns 19 while already in an IRTP, he or she may remain there until he or she has finished his or her course of treatment.⁷⁹ Access is dictated by DMH regulation.⁸⁰

Youth age 18 and older would receive inpatient services on adult inpatient psychiatric units run by or licensed by DMH.⁸¹

What residential services does DMH offer to its minor clients?

DMH provides some residential services for children and adolescents who cannot live at home and require a therapeutic school program. There are residential

⁷⁹ 104 CMR 27.04(2)(a).

⁸⁰ 104 CMR 27.04(2)(b), (c), (d).

⁸¹ In most instances, youth under age 19 may not be admitted to adult inpatient units run or licensed by DMH. 104 CMR 27.05(7). An exception exists when a judge of a court of competent jurisdiction has issued an order for the commitment of the individual to a mental health facility pursuant to the provisions of M.G.L. c. 123, §§ 15, 16, 17, or 18, or where the individual has been committed to the Department of Youth Services, and the Commissioner or designee has determined that one or both of the following factors exist:

1. placement of the individual on an adolescent inpatient unit would create a likelihood of serious harm to the individual or others; or

2. the individual is in need of stricter security than is available on an adolescent. 104 CMR 27.05(7)(a). Another exception is when admission is to the Commonwealth Research and Evaluation Unit at Erich Lindemann Mental Health Center, which may admit individuals under the age of 19 provided that the Units ensure appropriate separate physical space and programmatic services for them, as approved by the Commissioner. 104 CMR 27.05(7)(c).

options that serve:

- latency age youth (ages 6-12);
- adolescents (ages 13-18 or ages 15-20);
- transition age youth (ages 18-21); or
- young adults (ages 18-25) (these are group homes for young adults to develop independent living skills).

DMH currently funds a few supported housing slots specifically for older youth.

Depending on circumstances, DMH may pay for the residential component of a residential/educational placement such a placement while the school system pays for the education only component.

What are Individual and Family Flexible Support Services?

DMH contracts with providers in each of its sites for Individual and Family Flexible Support Services for children authorized by DMH to receive such services.

Services to families provided under these contracts are sometimes referred to as home-based services or wrap around services.

What are the specific services available under Flexible Support Services?

Services may include:

- teaching behavior management skills;
- access to respite care (DMH has specific contracts for this service);
- parent aide services;
- homemaker and chore services;
- supports for siblings;
- consultation on advocacy strategies to assist the family in securing services

- from schools and other entities, (including appropriate mental health and support services for parents, as needed);
- resources for purchasing individualized services to address unique challenges faced by families.⁸²

Home based services may last for 3-6 months.⁸³

What is the Young Adult Vocational Program? The Young Adult Vocational Program is a day program to assist young adults age 16–25 in developing vocational training and employment.

DMH's supported education services provide a counselor who will meet with young adults who are pursuing college and assist them with their search and advocate with colleges for accommodations as needed.⁸⁴

For older youth who have graduated or left school, DMH sponsors community-based programs that assist with achieving employment or educational objectives. DMH delivers these services to clients primarily by contracting with private vendors. One such program is provided by Community Support Clubhouses.

What are Community Support Clubhouses? DMH's Community Support Clubhouses provide members with a range of career counseling, job search, training, support, and placement services for obtaining and

⁸² DMH, DMH Family Support Plan for FY'10, <http://www.mfofc.org/2010/dmh2010.pdf>, at 1-2.

⁸³ Project Interface, Accessing the Massachusetts Department of Mental Health (DMH), A Guide for Parents and Guardians on How and When to Access Services for Children, Adolescents and Young Adult, <http://www.projectinterface.org/guides/accessingDMH.php>.

⁸⁴ Project Interface, Accessing the Massachusetts Department of Mental Health (DMH), A Guide for Parents and Guardians on How and When to Access Services for Children, Adolescents and Young Adult, <http://www.projectinterface.org/guides/accessingDMH.php>.

maintaining permanent, supported, or transitional employment. Clubhouses also serve as multi-service centers for DMH clients and other persons with mental illness living in the community. In addition to the more traditional job development, training, and employment services offered, each clubhouse operates under a “work ordered day” philosophy. Clubhouses pursue a variety of jobs for members including integrated, independent employment. Although initially designed for adult clients, six clubhouses have significantly modified their programs to make them attractive to older adolescents.

What are short term residential services?	Short term residential services provide a 45-day diagnostic program for adolescents in crisis who can not function at home.
What is peer mentoring?	<p>Peer mentoring is a program where young adults who have either graduated from the DMH system or are making great gains within it act as role models to other young adults. Mentors organize social activities, provide general support, etc.</p> <ul style="list-style-type: none">• Peer Mentoring Project -- contact Ray Thomas at 781-643-5093 (Arlington and Westboro areas)• Peer Mentoring Project -- contact Adam Rogers at 617-774-6031 (Canton and Quincy areas).
What are support groups?	DMH operates support groups for parents in each geographic area, including specific support groups for parents of young adults.

TRANSITION AGE YOUTH AND ADULT SERVICES

What adult services can transition age youth access?

Transition age youth can access DMH adult services such as CBFS, PACT teams, and clubhouse services.

What are CBFS services?

Community Based Flexible Supports (CBFS) are services to help DMH clients live as independently as possible in the community and pursue recovery from mental illness. In each geographic area of the state, DMH has contracted with vendors to provide CBFS services. These CBFS contractors are supposed to individualize the services for each client and to adjust the mix and intensity of CBFS services as the client moves toward recovery.⁸⁵

Services include, but are not limited to, interventions and supports that manage psychiatric symptoms in the community, restore or maintain independent living in the community, restore or maintain daily living skills, promote wellness and the management of medical conditions, and assist clients to restore or maintain and utilize the skills necessary to undertake employment.⁸⁶

What are PACT teams?

PACT (Program for Assertive Community Treatment) teams are intensive case management and outreach to individuals who typically are resistant to engaging in

⁸⁵ See DMH, Inpatient Study Commission, Description of Services, <http://www.mass.gov/eohhs/docs/eohhs/inpatient-commission/description-of-services-5-13-09.rtf>. For more information, see DMH web site at <http://www.mass.gov/eohhs/gov/departments/dmh/community-based-flexible-supports.html>.

⁸⁶ See DMH, Inpatient Study Commission, Description of Services, <http://www.mass.gov/eohhs/docs/eohhs/inpatient-commission/description-of-services-5-13-09.rtf>. For more information, see DMH web site at <http://www.mass.gov/eohhs/gov/departments/dmh/community-based-flexible-supports.html>.

treatment. The PACT program consists of a clinical team which works with each person. PACT is most appropriate for patients with certain diagnoses, such as schizophrenia.

Does DMH use PACT for young adults?

In Massachusetts, the Assertive Community Treatment services are available in various locations throughout the state, including in three sites in the Southeastern Area that specifically target these services for young adults.⁸⁷

What is the DMH Transition Age Youth Initiative?

The DMH Transition Age-Youth Initiative, established by DMH in 2005, helps youth move from the children's mental health system to the adult and helps those aging out of the juvenile or foster care systems. The initiative provides age-appropriate services for 16 to 25-year-olds that assist with vocational rehabilitation, peer support, mental health treatment, job searching and family psycho-education. Transition-Age Youth programs are located in all six of the state's Mass. Mental Health Service Delivery areas.

⁸⁷ GAO, Young Adults with Serious Mental Illness: Some States and Federal Agencies Are Taking Steps to Address Their Transition Challenges (June 2008), <http://www.gao.gov/new.items/d08678.pdf>, at 33.

CASE MANAGEMENT

What is DMH case management?

If DMH assigns a DMH case manager, their services shall include:

- arranging for and completing comprehensive assessments of service needs;
- convening service planning meetings;
- developing and reviewing individual service plans;
- reviewing individualized action plans, when applicable, to ensure compatibility with clients' individual service plans;
- assisting clients in obtaining other available services from public or private entities as are identified in clients' individual service plans;
- coordinating services for clients, and/or monitoring the coordination of DMH and non DMH services;
- providing outreach, as needed;
- providing intensive support and advocacy, as needed.⁸⁸

How does DMH determine who will have a case manager?

DMH regulations state that every individual who meets the clinical criteria, is determined to be in need of at least one existing DMH continuing care community service, and has no other means of obtaining that service will be eligible for case management. Thus, subject to available resources, every DMH client is eligible for DMH case management.

In practice, DMH will refer those individuals that DMH determines need a case manager to the appropriate DMH case management office.⁸⁹ Unfortunately the

⁸⁸ 104 CMR 29.05(2).

⁸⁹ 104 CMR 29.05(1).

DMH regulations do not spell out how DMH makes the determination of who needs a case manager. Clients are assigned a case manager based on the intensity of their need and as resources permit.

While it is clear that DMH does not have the resources presently to provide a case manager for every eligible client, a process has been developed to triage clients to determine their priority of need. Clients waiting for case management or residential services are often assigned to other community services.

Case management remains a state-operated service.

CHILDREN'S BEHAVIORAL HEALTH INITIATIVE (CBHI)

What should I know about the Children's Behavioral Health Initiative?

The Children's Behavioral Health Initiative is an undertaking by the Executive Office of Health and Human Services (EOHHS) and MassHealth to implement the Order in a lawsuit known as *Rosie D. et. al. v. Patrick*.

The major provisions of the Order are:

- improved education and outreach to MassHealth members, providers, members of the public, and private and state agency staff who come into contact with MassHealth members about Early Periodic Screening, Diagnosis and Treatment (EPSDT) services – to be implemented by December 31, 2007;
- implementation of standardized behavioral-health screening as a part of EPSDT “well-child” visits – to be implemented by December 31, 2007;
- improved and standardized behavioral-health assessments for eligible members who use behavioral-health services – to be implemented by November 30, 2008;
- the development of an information-technology system to track assessments, treatment planning and treatment delivery – to be implemented by November 30, 2008; and a requirement to seek federal approval to cover several new or improved community-based services – to be implemented by June 30, 2009.

What is a Community Service Agency (CSA)?

A Community Service Agency (CSA) is a community-based organization whose function is to facilitate access to, and ensure coordination of, care for youth with serious emotional disturbance (SED) who require or are already utilizing multiple services or are involved with multiple child-serving systems

(e.g., child welfare, special education, juvenile justice, mental health) and their families. In order to ensure that Massachusetts has the infrastructure to successfully support and implement the Children's Behavioral Health Initiative (CBHI), the Massachusetts Behavioral Health Partnership (MBHP), in collaboration with the four MassHealth-contracted managed care organizations (MCOs) – Boston Medical Center HealthNet Plan, Fallon Community Health Plan, Neighborhood Health Plan, and Network Health – has procured a network of CSAs.⁹⁰

What does a DMH liaison attached to a CSA do?

A DMH Liaison attached to a CSA performs the following functions:

- Link families and providers to CSAs;
- Distribute information regarding CSAs;
- Tell CSAs about DMH services;
- Authorize access to DMH community resources as available for youth with Intensive Care Coordination who meet DMH service criteria;
- Provide information regarding appeals process for DMH service denials;
- Facilitate DMH service application process;
- Consult to Care Planning Teams where there is a caretaker with mental illness;
- Provide info to adult caretakers with mental illness about DMH adult service system and applications;
- Communicate with the DMH designee to local System Care Committee;
- Helping families whose MassHealth entitlement is ending in accessing DMH and other services.⁹¹

⁹⁰ <http://www.masspartnership.com/Provider/index.aspx?lnkid=CSARequestForResponse.ascx>.

⁹¹ EOHSS, Strategic Overview and DMH Protocols (DRAFT - June 18, 2009), <http://www.rosied.org/resources/Documents/DMH%20protocols.final.doc>, at 13.

DMH SERVICE PLANNING

General provisions for all DMH service planning

DMH service planning activities should incorporate strengths, preferences and needs of client and if appropriate their families or caretakers and include assessment and the development and review of ISPs and IAPs.⁹²

When does a DMH client receive an ISP and when does a client receive an IAP.

If a DMH client has a DMH case manager, then he or she will have an ISP.⁹³

If a DMH client receives DMH community services, the client will have IAPs for each of those services.⁹⁴

If a DMH client has DMH community services only and no DMH case manager, the client will only have IAPs.⁹⁵

What are the components of DMH service planning in general?

The components include:

- conducted in the client's preferred language by staff fluent in the language or through competent interpreters;
- strength-based, person and when appropriate, family, centered;
- sensitive and responsive to a client's cultural, ethnic, linguistic background, sexual orientation, gender differences, parental status, and other individual needs of the client;
- based on the results of assessments which are reviewed and modified as the

⁹² 104 CMR 29.06.

⁹³ 104 CMR 29.07(1).

⁹⁴ 104 CMR 29.06.

⁹⁵ 104 CMR 29.06.

- client's needs or circumstances change; and
- informed by information obtained through interactions with the client, when appropriate the client's family or caretakers, and the client's other service providers with the appropriate authorizations, as well as previous records as available.⁹⁶

What are the goals of DMH service planning?

The goals include, to:

- promote client recovery and resiliency;
- identify the services that a client needs;
- facilitate or provide access to those services; and
- ensure that the provision of services is consistent with the client's needs, strengths and preferences is provided in the least restrictive setting possible, and promotes community participation to the fullest extent possible.⁹⁷

What are rights of client and families in the service planning process?

Clients will be:

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

⁹⁶ 104 CMR 29.06(1).

⁹⁷ 104 CMR 29.06(2).

process.⁹⁸

What if clients are unable or unwilling to take part in a meaningful way?

When clients are unable or unwilling to take part in a meaningful way in planning activities, action is taken to minimize obstacles to such participation. This shall include but not be limited to:

- developing plans for increasing the ability of clients to participate;
- modifying the schedule or structure of the meetings or making other accommodations
- designed to increase client participation;
- educating clients to facilitate and increase their participation; and
- continuing to engage clients in ways that assist them to make choices regarding their services to the maximum extent possible.⁹⁹

What is the ISP based on?

The ISP is based on a comprehensive assessment of service needs.¹⁰⁰ The case manager does this assessment within 20 days of assignment, unless an extension is granted by the Area Director or designee.¹⁰¹ The regulations set out what must be part of the assessment.¹⁰²

The comprehensive assessment of service needs shall include review of the documents submitted with the client's application and other records, as needed; a personal interview with the client that will include, but not be limited to,

⁹⁸ 104 CMR 29.06(3).

⁹⁹ 104 CMR 29.06(4).

¹⁰⁰ 104 CMR 29.06(2).

¹⁰¹ 104 CMR 29.06(2)(a).

¹⁰² 104 CMR 29.06(2)(b).

identification of the client's service preferences and recovery goals; an interview with the client's legally authorized representative; and interviews with other persons as agreed upon by the case manager and the client or his or her legally authorized representative, and shall be documented using a Department-approved report form.¹⁰³

How are ISPs developed?

An ISP shall identify strengths, needs, goals, and services and programs that address the needs of the client (both DMH and other public and private services).¹⁰⁴

Services must be consistent with the client's service needs, strengths and preferences to the maximum extent possible, and shall be provided in the least restrictive setting.¹⁰⁵

The ISP shall be developed with the fullest possible coordination with the client's other services, including educational services.¹⁰⁶

Services provided shall be based on client's needs and preferences as identified in the assessment and on the availability of services.¹⁰⁷

If services are not available, the plan must identify other available services which are to the maximum extent possible, consistent with the client's needs and preferences and are provided in the least restrictive setting.¹⁰⁸

¹⁰³ 104 CMR 29.07.

¹⁰⁴ 104 CMR 29.07(3)(a)1.

¹⁰⁵ 104 CMR 29.07(3)(a)2.

¹⁰⁶ 104 CMR 29.07(3)(a)3.

¹⁰⁷ 104 CMR 29.07(3)(a)4.a. and b.

¹⁰⁸ 104 CMR 29.07(3)(a)4.b.

The ISP meeting convention

The case manager must convene a meeting of all interested parties within ten days of the completion of the needs assessment. 104 CMR 29.07(3)(b)1. The case manager must invite the client and the client's legally authorized representative, current and potential service providers, other DMH staff, any other person whose participation is requested or consented to by the client or representative.¹⁰⁹

What is discussed at the ISP meeting?

At the ISP meeting the following topics should be discussed:

- the client's goals;
- the preferences of the client and the client's legally authorized representative
- regarding services;
- the client's needs in the context of his or her assessed strengths;
- recommended services for the client;
- currently available services, including those provided by or available from other agencies or entities;
- potential and present service providers;
- dates, actual or anticipated, for commencement of each service;
- the steps necessary to complete and implement the individual service plan;
- a description of the financial assistance and services from federal, state and local agencies available to the client, including any benefits to which the client may be entitled but is not currently receiving;
- the client's need for a guardian or a financial fiduciary.¹¹⁰

What if the ISP meeting members

Authorization for DMH services recommended in the ISP that have not been

¹⁰⁹ 104 CMR 29.07(3)(b)1.

¹¹⁰ 104 CMR 29.07(3)(b)2.

recommend services funded by DMH but not previously authorized?

previously authorized shall be obtained from the Area Director or designee within five days of the individual service plan meeting.¹¹¹

After authorization for DMH services that have not been previously authorized is obtained, the individual service plan will be given to the client and his or her legally authorized representative for acceptance or rejection in accordance with 104 CMR 29.08.¹¹²

Accepting or rejecting ISP

One the ISP is complete, DMH gives it to the client to accept or reject.¹¹³ If the client accepts it, it will be implemented.¹¹⁴ If the client doesn't object within 20 days, it is implemented.¹¹⁵ If the client rejects some or all of the plan, the client may meet with the case manager within five days of rejection to discuss changes.¹¹⁶ If an agreement is not reached, the client may appeal.¹¹⁷

Annual review of ISP

The case manager must initiate an annual review no later than 12 months from the date of the last completed or substantially modified ISP.¹¹⁸ The purposes of the review are:

- to ensure that services are, to the maximum extent possible, consistent with the client's preferences, and provided in the least restrictive setting;
- to ensure that services are consistent with the client's needs and strengths as

¹¹¹ 104 CMR 29.07(3) (d)

¹¹² 104 CMR 29.07(3)(c)

¹¹³ 104 CMR 29.08(1).

¹¹⁴ 104 CMR 29.08(1)(a).

¹¹⁵ 104 CMR 29.08(1)(b).

¹¹⁶ 104 CMR 29.08(1)(c).

¹¹⁷ 104 CMR 29.08(1)(c).

¹¹⁸ 104 CMR 29.09(1).

- identified in the comprehensive assessment of needs;
- to reassess, if appropriate, the client's need for a guardian, or a financial fiduciary; and
- to ensure that IAPs continue to be compatible with the ISP.¹¹⁹

What must happen at the annual review meeting?

At the meeting or, if a meeting has been waived, by other means, the case manager shall consider and also inquire of each person:

- whether the client continues to meet the criteria for DMH services;
- whether the services provided continue to be consistent with the individuals' needs and the ISP goals;
- whether there has been progress toward goals and objectives stated in the IAPs.¹²⁰

When must the ISP be ready after the annual review?

The case manager must prepare the ISP within 10 days of the annual review meeting.¹²¹ The case manager must give the ISP to the client or representative to accept or reject.¹²²

What if the client doesn't act on the ISP after the annual review?

If the client or his or her legally authorized representative doesn't object within 20 days of receipt, the ISP is considered accepted.¹²³

¹¹⁹ 104 CMR 29.09(1).

¹²⁰ 104 CMR 29.09(3)

¹²¹ 104 CMR 29.09(4)(a).

¹²² 104 CMR 29.09(4)(c).

What if the client rejects the ISP after the annual review?

The client will be informed of his right to meet with the case manager within five days of the rejection to discuss changes. The client has the right to appeal. Parts of the plan that the client accepts may be implemented immediately, if appropriate.¹²⁴

Who can seek modification of ISP?

The client, the client's representative, the client's DMH community service provider or client's case manager.¹²⁵

When may one seek a modification of an ISP?

Whenever it is determined, at annual review or another time, that such a change will permit a client to receive more appropriate or less restrictive services consistent with the client's needs or that the client no longer needs a service.¹²⁶

Can a modification be made without the client's or client's representative's acceptance?

A modification can be made without the client's or representative's acceptance only to comply with a state contracting requirement or to avoid a serious or immediate threat to health, mental health, or safety of the client or other persons.¹²⁷

How does a client challenge a proposed or denied modification?

A client or representative may reject and appeal a proposed or denied modification.¹²⁸

No modification may be implemented if an appeal is pending without the consent

¹²³ 104 CMR 29.09(4)(c)2.

¹²⁴ 104 CMR 29.09(4)(c)3.

¹²⁵ 104 CMR 29.10(1).

¹²⁶ 104 CMR 29.10(2).

¹²⁷ 104 CMR 29.10(3)(b).

of the client or representative unless it is determined that the modification is required for certain reasons stated in 104 CMR 29.10(3)(a) or (b).¹²⁹

Who gets an IAP?	Each client who receives one or more DMH community services must have a written integrated IAP. If you have more than one such service, DMH will designate the primary DMH provider as responsible for developing the plan. ¹³⁰
What are IAPs based upon?	IAPs are based on assessments conducted or arranged for by the program that provides the community service, as appropriate. ¹³¹
What do IAPs include?	IAPs include measurable goals, objectives, and interventions, with timelines for completion. ¹³²
What happens if an IAP is accepted?	<p>Upon acceptance, IAPs and reviews are signed by the client or representative.¹³³</p> <p>The program gives a copy of the IAP to the client or representative, and to the client's other service providers.¹³⁴</p>

¹²⁸ Appeal is pursuant to 104 CMR 19.16.

¹²⁹ 104 CMR 29.10(4).

¹³⁰ 104 CMR 29.11(1).

¹³¹ 104 CMR 29.11(2)(a).

¹³² 104 CMR 29.11(2)(b).

¹³³ 104 CMR 29.11(2)(c).

¹³⁴ 104 CMR 29.11(2)(d).

Does DMH get a copy of the IAP?

If a client receives DMH case management, the DMH case manager is included in the planning activities, and a copy of the IAP and modifications are submitted to the case manager. If a client is not receiving DMH case management, the client's IAP and modifications thereto are provided to DMH if DMH requests them.¹³⁵

Acceptance or rejection of IAPs

If the IAP is accepted, it is implemented.¹³⁶ If there is no objection within 20 days of receipt, it is deemed accepted.¹³⁷

If a client rejects some or all of an IAP, the client may meet with the program within five days of the rejection to discuss possible modifications.¹³⁸ If the client and program can't reach agreement, the client may appeal.¹³⁹

If parts of the IAP are accepted, they will be implemented immediately, if appropriate.¹⁴⁰

When are IAPs reviewed?

IAPs are reviewed at three months, six months, and at least annually thereafter as needs change, or upon the request of the client or representative.¹⁴¹

What is the purpose of the IAP review?

The purpose of this review is:

¹³⁵ 104 CMR 29.11(2)(e), (f).

¹³⁶ 104 CMR 29.12(1)(a).

¹³⁷ 104 CMR 29.12(1)(b).

¹³⁸ 104 CMR 29.12(1)(c).

¹³⁹ 104 CMR 29.12(1)(d). Appeal is pursuant to 104 CMR 29.16.

¹⁴⁰ 104 CMR 29.12(2).

¹⁴¹ 104 CMR 29.13(1).

- to evaluate the client's progress and current status in meeting the goals set forth in the IAP; and
- to evaluate whether the services, goals, objectives, and interventions continue to be consistent with the client's needs, strengths and preferences and individual service plan, if any, and to modify the IAP as appropriate.¹⁴²

What happens if the IAP is modified as a result of a review? If an IAP is modified as a result of a review, the modified IAP will be given to the client and representative for acceptance or rejection.¹⁴³

¹⁴² 104 CMR 29.13(1) (a).

¹⁴³ 104 CMR 29.13(2).

WHEN THINGS CHANGE

What if a DMH community provider thinks a client isn't respecting rights of other client or staff in a program or residential site of a program or isn't conforming to the program or residential site rules?

If a DMH community provider thinks a client isn't respecting rights of other client or staff in a program or residential site of a program or isn't conforming to the program or residential site rules, there shall be a review of the client's individualized action plan, and the program director or designee shall document the situation, including any known precipitating factors; and in conjunction with the client and his or her legally authorized representative, develop a plan to address the situation.¹⁴⁴ Protections exist for clients if a provider pursues this course of action.¹⁴⁵

What if the DMH Area Director determines that the client no longer meets clinical criteria for DMH services or no longer needs such services?

DMH will set a date for when services will end.¹⁴⁶ Then the Area Director must take a series of steps. These steps include notifying the client of the reason for ending services and of right to appeal, modify the plan, or identify in the ISP, if applicable, any person or agency responsible for future provision of services (or state no services are needed).¹⁴⁷ If an appeal is filed, DMH cannot discharge the client from services until appeal is complete.¹⁴⁸

What if a client wants to be discharged from DMH services?

If a client or representative requests discharge from DMH services, the request will be referred to the Area Director or designee for review.

If DMH agrees, the client shall be discharged and shall no longer be a client.

¹⁴⁴ 104 CMR 29.13(4).

¹⁴⁵ 104 CMR 29.13(4)(a)-(e).

¹⁴⁶ 104 CMR 29.14(1).

¹⁴⁷ 104 CMR 29.14(1)

¹⁴⁸ 104 CMR 29.14(2).

If such request is against the advice of the Area Director or designee, DMH will try for up to 30 days to encourage the client or representative to continue DMH services. If the client or representative still requests discharge, the client shall be discharged and will no longer be a client.

If a client disengages from DMH services without formal request, DMH will try to re-engage the client. If those efforts fail, DMH staff will notify the Area Director or designee shall be notified. If the Area Director or designee agrees, the client shall be discharged and shall no longer be a client.¹⁴⁹

What if I want to change a youth's DMH area of responsibility (also called area of tie)?

DMH has a policy which lays out the rights of a client with respect to his or her area of responsibility, and the process for seeking to change the area of responsibility.¹⁵⁰

Can DMH relook at eligibility of an existing client?

DMH may reexamine whether a client continues to meet criteria for DMH services (clinical and determination of need) annually or when the client's circumstances have changed.¹⁵¹

¹⁴⁹ 104 CMR 29.15 (1).

¹⁵⁰ DMH Policy 99-1, Area of Responsibility (1999), <http://www.mass.gov/eohhs/docs/dmh/policy/policy-99-1.pdf>.

¹⁵¹ 104 CMR 29.04(1)(f).

GROWING UP

How do DMH and special education services intersect?

Local school systems are required under state and federal law to provide a range of services to youth (up to age 22 or receipt of a high school diploma, whichever comes first) who are disabled by reason of emotional disturbance to the extent that they require special education and related services. These services may include in-class supports, counseling and, for children with more severe needs, educational services outside of a regular classroom and in special education day and residential schools.

DMH clients who receive special education also may be eligible to receive DMH services. When special education services end, DMH clients may face gaps in their service delivery system and may look to DMH services to fill them. As a special education student, a youth has a right to a special education transition plan that anticipates and addresses this eventuality. For DMH clients, DMH should participate in the development of the transition plan.

Aging out of DMH

New applicants who are age 18 and who meet adult eligibility criteria are entered as adults; if they do not meet adult criteria they may become eligible under the child/adolescent criteria. Individuals under the age of 19 may receive adult services when clinically appropriate and adults over the age of 19 may receive child and adolescent services when appropriate. Furthermore, DMH has placed significant emphasis on planning for transition age youth between the ages of 16 and 25. This age grouping encompasses both the child/adolescent and adult systems. Lastly, the Rosie D Class includes children up to age 21.¹⁵²

¹⁵² Voices of Youth in Transition: The Experience of Aging Out of the Adolescent Public Mental Health Service System in Massachusetts (Delman 2002) in MCLE, Protecting Children in a Changing World (2003) at 267.

How does one choose between pursuing DMH and DDS services?	<p>One need not choose between seeking services from DMH and the Department of Developmental Services. An individual may pursue both types of services and may pursue them concurrently. One could be eligible for both types of services. Eligibility for one agency's services does not influence eligibility for another agency's services. However, when an agency conducts an assessment of needs, if needs are being met by one agency, the other agency will consider that need met and will not provide a service with respect to that need.</p>
What if an individual needs inpatient mental health services? Does it matter if he is she is a DMH client or not?	<p>One may access acute mental health services from a general or psychiatric hospital in Massachusetts regardless of whether or not one is a DMH client. If treatment cannot be accomplished in the acute care setting and longer term care is needed, the hospital may seek transfer to a continuing care facility. Admission to such a facility again does not require that the patient be a DMH client.</p>
What is DMH's role re licensing, regulating facilities?	<p>DMH licenses inpatient mental health facilities, but not hospital emergency rooms, which are licensed by the Department of Public Health.</p>
What is DMH's role with respect to licensing facilities for youth?	<p>Of the various facilities into which a youth with mental health needs might be placed, some but not all are licensed by DMH.</p> <ul style="list-style-type: none"> • Intensive residential treatment programs (IRTPs) – licensed by DMH. • Clinically Intensive Residential Treatment (CIRT) programs -- licensed by DEEC, not DMH, as group care facility. DMH contracted, purchased, and monitored. DMH identifies referral pool, assigns case manager. • Secure behavioral intensive residential treatment (BIRT) program for

adolescents in DCF custody -- licensed by DMH as an IRTP, but is slightly different -- hence the name BIRT, funded by DMH, run by a vendor. For moderately ED/MR kids. It will have a permanent waiver to accept 12 year olds, not just 13-18 year olds. Joint contract of DMH and DCF (I.e. procurement by both agencies). DCF prioritizes the clients. DMH contracts.

- Community-based Acute Treatment (CBAT) (formerly Acute Residential Treatment) – licensed by DEEC. A community-based, staff secure, therapeutic 24-hour treatment program with high levels of supervision, structure, and intensity of services. Programs serve children and adolescents who require a protected and structured environment. Treatment is less restrictive than inpatient treatment yet more restrictive than partial hospitalization or outpatient treatment. CBAT offers a wide array of services including a therapeutic environment, along with multi-disciplinary, multi-modal therapies. May serve child and/or adolescent age boys and girls.

Residential facilities for minors are licensed by the Department of Early Education and Care.

How can one help when a family member or friend is in a psychiatric hospital?

One can help a family member or friend in a psychiatric hospital in the following ways:

- Take careful notes;
- Learning key staff and administration titles and contact information;
- If staff are authorized to communicate, ask questions;
- Provide history and records, if appropriate;
- Facilitate communication and coordination among hospital staff and between those staff and outside entities;

- Maintain a document file including particularly the admission documents, the treatment plan, the medication list, and the discharge report;
- For a child, ensure that educational needs are being met while hospitalized.¹⁵³

¹⁵³ Children's Hospital, Helping with Your Child's Psychiatric Hospitalization (2002), <http://www.childrenshospital.org/clinicalservices/Site1908/Documents/parentguide.pdf>.