DISTRICT OF COLUMBIA

OFFICIAL CODE

TITLE 7.

HUMAN HEALTH CARE AND SAFETY.

CHAPTER 7C.

DEPARTMENT ON DISABILITY SERVICES.

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CHAPTER 7C. DEPARTMENT ON DISABILITY SERVICES.

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CHAPTER 7C. DEPARTMENT ON DISABILITY SERVICES.

§ 7-761.01. SHORT TITLE.

This chapter may be cited as the "Department on Disability Services Establishment Act of 2006".

(Mar. 14, 2007, D.C. Law 16-264, § 101, 54 DCR 818.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 101 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

Law 16-264, the "Developmental Disabilities Service Management Reform Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-398, which was referred to Committee on Human Services. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-620 and transmitted to both Houses of Congress for its review. D.C. Law 16-264 became effective on March 14, 2007.

§ 7-761.02. DEFINITIONS.

For the purposes of this chapter, the term:

(1) "Community-based services" means non-residential specialized or generic services for the evaluation, care, and habilitation of persons with intellectual disabilities, in a community setting, directed toward the intellectual, social, personal, physical, emotional, or economic development of a person with an intellectual disability. The services shall include, but not be limited to, diagnosis, evaluation, treatment, day care, training, education, sheltered employment, recreation, counseling of the person with an intellectual disability and his or her family, protective and other social and socio-legal services, information and referral, and transportation to assure delivery of services to persons of all ages with intellectual disabilities.

(2) "Consumer" means a resident of the District of Columbia who is receiving, or eligible to receive, services from the Department on Disability Services.

(3) "Department" or "DDS" means the Department on Disability Services established by § 7-761.03.

(4) "DHS" means the Department of Human Services.

(5) "Director" means the Director of the Department on Disability Services.

(6) "Habilitation" means the process by which a person is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, including, in the case of a person committed under § 7-1304.06a, to refrain from committing crimes of violence or sex offenses, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency. The term " habilitation" includes, but is not limited to, the provision of community-based services.

(7) "Home and community-based services waiver" means a Medicaid home and community-based services waiver approved under section 1915(c) of the Social Security Act, approved August 13, 1981 (95 Stat. 809; 42 U.S.C. § 1396n).

(7A) "Intellectual disability" or "persons with intellectual disabilities" means a substantial limitation in capacity that manifests before 18 years of age and is characterized by significantly below-average intellectual functioning, existing concurrently with 2 or more significant limitations in adaptive functioning.

(8) "Medical Assistance Administration" or "MAA" means the division of the Department of Health responsible for administering the District's Medical Assistance Program, or its successor agency.

(9) "Medical Assistance Program" and "Medicaid Program" mean the program described in the Medicaid State Plan and administered by the Medical Assistance Administration pursuant to § 1-307.02(b), and Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*).

(10) Repealed.

(11) Repealed.

(12) "Resident of the District of Columbia" shall have the same meaning as provided in § 7-1301.03(22).

(13) "RSA" means the Rehabilitation Services Agency within the Department of Human Services.

(Mar. 14, 2007, D.C. Law 16-264, § 102, 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 15(a), 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-169 rewrote par. (1); added par. (7A); and repealed pars. (10) and (11). Prior to amendment or repeal, pars. (1), (10), and (11) read as follows:

"(1) 'Community-based services' means non-residential specialized or generic services for the evaluation, care, and habilitation of persons with mental retardation, in a community setting, directed toward the intellectual, social, personal, physical, emotional, or economic development of a person with mental retardation. Such services shall include, but not be limited to, diagnosis, evaluation, treatment, day care, training, education, sheltered employment, recreation, counseling of the person with mental retardation and his or her family, protective and other social and socio-legal services, information and referral, and transportation to assure delivery of services to persons of all ages with mental retardation."

"(10) 'Mental retardation' or 'persons with mental retardation' means a substantial limitation in capacity that manifests before 18 years of age and is characterized by significantly subaverage intellectual functioning, existing concurrently with 2 or more significant limitations in adaptive functioning.

"(11) 'MRDDA' means the former Mental Retardation and Developmental Disabilities Administration within the Department of Human Services."

Emergency Act Amendments

For temporary (90 day) addition, see § 102 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-189, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 6, 2012, and April 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to both Houses of Congress for its review. D.C. Law 19-169 became effective on September 26, 2012.

§ 7-761.03. ESTABLISHMENT AND PURPOSE OF THE DEPARTMENT ON DISABILITY SERVICES.

Pursuant to § 1-204.04(b), the Department on Disability Services is established as a separate Cabinet-level agency, subordinate to the Mayor, within the executive branch of the District of Columbia, for the purpose of:

(1) Leading the reform of the District's intellectual and developmental disabilities system by coordinating the collaborative efforts of government agencies, contractor providers, Medicaid waiver providers, labor, and community leaders to improve the care and habilitation services provided to individuals;

(2) Ensuring that District laws, regulations, programs, policies, and budgets are developed and implemented to promote inclusion and integration, independence, self-determination, choice, and participation in all aspects of community life for individuals with developmental disabilities and their families; and

(3) Promoting the well-being of individuals with developmental disabilities throughout their life spans, through the delivery of individualized, high-quality, safe services and supports.

(Mar. 14, 2007, D.C. Law 16-264, § 103, 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 15(b), 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-169, in par. (1), substituted "intellectual" for "mental retardation" and substituted "individuals" for "consumers".

Emergency Act Amendments

For temporary (90 day) addition, see § 103 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

For history of Law 19-169, see notes under § 7-761.02.

§ 7-761.04. ORGANIZATION.

(a) The Department shall have sufficient staff, supervisory personnel, and resources to accomplish the purposes of this chapter.

(b) The Director shall have the authority to organize the Department as the Director may determine is necessary and appropriate to carry out the Department's mission.

(Mar. 14, 2007, D.C. Law 16-264, § 104, 54 DCR 818.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 104 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

§ 7-761.05. DUTIES.

The Department shall:

(1) Provide services and supports to consumers in accordance with:

(A) Chapter 13 of this title; and

(B) Section 109 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, approved October 30, 2000 (114 Stat. 1692; 42 U.S.C. § 15009);

(2) No later than June 30, 2007, provide services and supports in accordance with subchapter II of Chapter 3 of Title 32;

(3) Establish rules, quality standards, and policies for all services and supports, including Medicaid-funded services;

(4) Execute provider agreements and, in consultation with MAA, establish rates for all services and supports, including Medicaid-funded services;

(5) In conjunction with other District agencies and directed by a comprehensive quality management plan which makes clear that facility licensure and certification is an integral component of the Department's overall responsibility, monitor the provision of all services and supports and investigate, remediate, and enforce quality standards for all services and supports, including Medicaid-funded services;

(6) Identify federal and other appropriate funding opportunities for services and supports for individuals with developmental disabilities and their families, and directly pursue, and recommend and encourage other agencies to pursue, funding opportunities, where appropriate;

(7) In the establishment of a waiting list for supports and services, DDS shall confer with residents with intellectual and developmental disabilities and their families, service providers, and advocates to provide information to the Department in developing rules and procedures, which shall provide:

(A) That persons on the waiting list begin to receive supports and services within a reasonable period of time;

(B) That the allocation of supports and services is based on a fair, equitable, and consistent method;

(C) That the minimum supports and services are available to all eligible persons;

(D) The supports and services for which a waiting list will be established;

(E) How a person is placed on the waiting list;

(F) The criteria that determine rank on the waiting list;

(G) The criteria for providing immediate services to a person on the waiting list:

(i) If the person is homeless or at imminent risk of becoming homeless, as these terms are defined in § 4-751.01(18) and (23); or

(ii) If there is a reasonable belief that the person is in imminent danger or will be subject to abuse or neglect if the person does not receive immediate support or service;

(H) The process for a person to appeal his or her placement or rank on the waiting list; and

(I) The notice procedure for informing a person of his or her placement on the waiting list, including how long the person can expect to wait for supports and services;

(8) In partnership with residents with intellectual and developmental disabilities and their families, service providers, and advocates, through work groups, sponsor forums, or other type of assembly that ensures meaningful community participation, conduct a needs assessment of District residents with intellectual and developmental disabilities and their families, which shall be published no later than September 30, 2010; and

(9)(A) Maximize Medicaid revenues by requiring, as of January 1, 2012, an individual to obtain and maintain District Medicaid eligibility for purposes of receiving supports and services from a District Medicaid-eligible provider or requiring the individual to make full payment directly to the provider for such supports and services; provided, that this requirement shall not apply to a person:

(i) Who is a former resident of Forest Haven;

(ii) Whose needs cannot reasonably be met by a District Medicaid provider;

(iii) Who is eligible for enrollment in the D.C. Healthcare Alliance; or

(iv) Whose representative payee for the purposes of Social Security benefits is the Department of Disability Services or a provider agency who is contracted with the District to provide supports and services for that person, if the reason the person lost Medicaid eligibility is due to a failure by the representative payee.

(B) The Department of Disability Services shall work with and support the person to become District Medicaid-eligible and to maintain District Medicaid eligibility, and the person and his or her representatives, estate, or both shall fully cooperate in such efforts.

(Mar. 14, 2007, D.C. Law 16-264, § 105, 54 DCR 818; Mar. 3, 2010, D.C. Law 18-111, § 5071(a), 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, § 5003, 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-111, in par. (5), deleted "; and" from the end; in par. (6), substituted a semicolon for a period at the end; and added pars. (7) and (8).

D.C. Law 19-21 deleted "and" from the end of par. (7)(I); substituted "; and" for a period the end of par. (8); and added par. (9).

Emergency Act Amendments

For temporary (90 day) addition, see § 105 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

For temporary (90 day) amendment of section, see § 5071(a) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 5071(a) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

For Law 18-111, see notes following § 7-736.01.

For history of Law 19-21, see notes under § 7-731.

Miscellaneous Notes

Short title: Section 5070 of D.C. Law 18-111 provided that subtitle H of title V of the act may be cited as the "Department on Disability Services Reporting, Waiting List, and Assessment Amendment Act of 2009".

§ 7-761.06. APPOINTMENT AND AUTHORITY OF THE DIRECTOR.

(a) The Department shall be headed by a Director who shall report to the Mayor. The Mayor shall appoint the Director with the advice and consent of the Council pursuant to § 1-523.01(a).

(b) The Director shall:

(1) Hold at least a master's degree or its equivalent in human services, clinical services, human service management, public administration, social work, or a related field;

(2) Have relevant work experience; and

(3) Possess:

(A) Demonstrated knowledge of current best-practice policies, programs, services, and supports for individuals with developmental disabilities;

(B) Familiarity with local and federal funding streams supporting services to people with developmental disabilities; and

(C) Experience managing human service programs.

(c) The Director shall serve as the administrative chief of the Department, and may organize personnel, re-delegate authority, develop programs, and take any other action, consistent with appropriations, as warranted to accomplish the purpose and mission of the Department or to satisfy the requirements of applicable court orders.

(d) The Mayor shall delegate to the Director all personnel authority, including full authority to hire, retain, and terminate personnel, and the Director shall exercise that personnel authority independent of the Office of Personnel and consistent with applicable court orders.

(e) The Mayor shall delegate to the Director all procurement authority, including contracting and contracting oversight, and the Director shall exercise that procurement authority independent of the Office of Contracting and Procurement and consistent with applicable court orders.

(f) The Mayor shall fix the compensation of the Director pursuant to subchapter X-A of Chapter 6 of Title 1.

(Mar. 14, 2007, D.C. Law 16-264, § 106, 54 DCR 818.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 106 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

§ 7-761.06A. REPORTING REQUIREMENTS.

(a) The Mayor shall publish reports on persons seeking and receiving services from the Department. Each report shall provide a monthly and year-to-date statistical profile of:

(1) Persons who have applied for services, organized by:

(A) Referral source;

(B) Application status; and

(C) Average length of time spent in each stage of the application process;

(2) Eligible persons who have requested but not yet received one or more services, organized by service type;

(3) Persons receiving services, organized by service type; and

(4) Persons terminated from services, organized by reason for termination.

(b) The Mayor shall publish the reports required under subsection (a) of this section on a bimonthly basis throughout fiscal year 2010 and on a quarterly basis thereafter, no later than the 15th day following the end of the month or quarter for which the report is required.

(Mar. 14, 2007, D.C. Law 16-264, § 106a, as added Mar. 3, 2010, D.C. Law 18-111, § 5071(b), 57 DCR 181.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 5071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 5071(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 18-111, see notes following § 7-736.01.

§ 7-761.06B. REPORTS AND NOTICES TO BE MADE AVAILABLE TO THE PUBLIC.

The Department shall make all reports and notices required under this chapter available on its website within one business day of publication, and shall provide copies to the public upon request.

(Mar. 14, 2007, D.C. Law 16-264, § 106b, as added Mar. 3, 2010, D.C. Law 18-111, § 5071(b), 57 DCR 181.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 5071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 5071(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 18-111, see notes following § 7-736.01.

§ 7-761.07. MEDICAID SERVICES.

(a) The Department and the Medical Assistance Administration shall enter into an agreement for the Department to direct policy development and design of services and supports provided under the home and community-based services waiver, including policies, services, and supports related to the operation of intermediate care facilities for persons with intellectual or developmental disabilities.

(b) Nothing in this chapter shall affect the status of the Medical Assistance Administration as the single state agency for the administration of the Medicaid Program under section 1902(a)(5) of the Social Security Act, approved July 30, 1965 (79 Stat. 344; 42 U.S.C. § 1396a(a)(5)).

(Mar. 14, 2007, D.C. Law 16-264, § 107, 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 15(c), 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-169, in subsec. (a), substituted "intellectual or developmental disabilities" for "mental retardation".

Emergency Act Amendments

For temporary (90 day) addition, see § 107 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

For history of Law 19-169, see notes under § 7-761.02.

§ 7-761.08. TRANSFERS OF AUTHORITY.

(a) All real or personal property, leased or assigned to the Department of Human Services on behalf of the Mental Retardation and Developmental Disabilities Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be

made available relating to those powers, duties, functions, and operations of the DHS as set forth in, and utilized to carry out, section III(U) of part B of subchapter IV of Chapter 15 of Title 1, relating to MRDDA, are transferred to the Department.

(b) No later than June 30, 2007, all real or personal property, leased or assigned to the Department of Human Services on behalf of the Rehabilitation Services Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions, and operations of the DHS as set forth in, and utilized to carry out, section III(V) of part B of subchapter IV of Chapter 15 of Title 1 and those functions and operations of the DHS pertaining only to social security disability and social security income eligibility determinations as set forth in, and utilized to carry out, section III(T) of part B of subchapter IV of Chapter 15 of Title 1, relating to RSA, shall be transferred to the Department.

(c) The Chief Financial Officer shall promptly create within the system of accounting and reporting a separate account for the appropriations and expenditures of the Department, distinct from the accounts of DHS.

(d)(1) All of the authority and functions of the DHS as set forth in section III(U) of part B of subchapter IV of Chapter 15 of Title 1, are transferred to the Department.

(2) No later than June 30, 2007, all of the authority and functions of the DHS as set forth in section III(V) of part B of subchapter IV of Chapter 15 of Title 1 and the authority and functions pertaining to social security disability and social security income eligibility determinations as set forth in section III(T) of part B of subchapter IV of Chapter 15 of Title 1, shall be transferred to the Department.

(Mar. 14, 2007, D.C. Law 16-264, § 108, 54 DCR 818.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 108 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

Miscellaneous Notes

Designation of the Office of Human Rights as the Administrator of the Client Assistance Program, see Mayor's Order 2010-66, May 14, 2010 (57 DCR 4283).

§ 7-761.09. RULEMAKING AND CONTRACTING AUTHORITY.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules as necessary to implement the provisions of this chapter.

(b) Pursuant to Unit A of Chapter 3 of Title 2, the Mayor may execute contracts, grants, and other legally binding documents to implement the provisions of this chapter.

(Mar. 14, 2007, D.C. Law 16-264, § 109, 54 DCR 818.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 109 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

§ 7-761.10. DELEGATION AND REDELEGATION OF AUTHORITY.

The Department and its Director shall be the successors to all intellectual and developmental disabilities-related authority delegated to the DHS and its Director, and the Director of the Department shall be authorized to act, either personally or through a designated representative, as a member of any committees, commissions, boards, or other bodies that include as a member the Director of the DHS with respect to intellectual and developmental disabilities-related authority.

(Mar. 14, 2007, D.C. Law 16-264, § 110, 54 DCR 818; Sept. 26, 2012, D.C. Law 19-169, § 15(d), 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-169 substituted "intellectual" for "mental retardation".

Emergency Act Amendments

For temporary (90 day) addition, see § 110 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.

For history of Law 19-169, see notes under § 7-761.02.

Miscellaneous Notes

Establishment of the State Independent Living Council as an Independent Commission, see Mayor's Order 2010-105, June 25, 2010 (57 DCR 5554).

§ 7-761.11. RESCISSION.

All organizational orders and parts thereof in conflict with any of the provisions of this chapter are rescinded, except that any regulations adopted or promulgated by virtue of the authority granted by such orders shall remain in force until revised, amended, or repealed.

(Mar. 14, 2007, D.C. Law 16-264, § 111, 54 DCR 818.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 111 of Developmental Disabilities Services Management Reform Emergency Amendment Act of 2006 (D.C. Act 16-672, December 28, 2006, 54 DCR 1155).

Legislative History of Laws

For Law 16-264, see notes following § 7-761.01.