

Memorandum of Understanding among Developmental Disabilities Services, Mental Health Services and the Division of Children's Health and Rehabilitation

Concerning Individuals with a Co-occurring Mental Illness and Developmental Disability

I. Purpose:

The purpose of this memorandum of understanding (MOU) is to clarify responsibility for providing services to consumers with a co-occurring mental illness and a developmental disability. This MOU defines the respective responsibilities of the mental health system and the developmental disabilities system in providing services to consumers. In addition, it intends to more effectively support the integration of services delivered across the Developmental Disabilities and Mental Health service systems and to encourage cooperative relationships among Community Centered Boards (CCBs), Community Mental Health Centers (CMHCs) and Mental Health Assessment and Service Agencies (MHASAs).

This MOU describes the eligibility requirements of each system, the services available for consumers with a co-occurring mental illness and developmental disability and the need for CCBs, CMHCs and MHASAs to proactively coordinate admission and discharges of these consumers to and from the Mental Health Institutes and the Regional Centers.

II. Policy Statement:

The State Agencies recognize that consumers with a co-occurring mental illness and developmental disability typically require services for both their mental illness and developmental disability in order to address either effectively. Services for one without services for the other is of limited benefit and in many instances problems faced by these consumers reoccur and require ongoing services from both systems. Furthermore, for some consumers, their need for services varies over time and they require periodic changes in service intensity from one or the other system.

Therefore; it is critical for developmental disabilities and mental health contractors to coordinate their service delivery systems whenever indicated.

III. Eligibility for Services

A. Developmental Disabilities

Persons must be determined eligible by one of the twenty Community Centered Boards¹ (CCBs). A developmental disability, or a developmental delay if under age 5, must have been manifested before the person reaches twenty-two years of age as defined in Colorado Revised Statutes (27-10.5) as amended, and accompanying rules and regulations.²

B. Mental Health

1. Non-Medicaid Consumers

Non-Medicaid consumers must be determined eligible by one of seventeen Community Mental Health Centers (CMHCs) or six Specialty Clinics³. State funding is limited and non-Medicaid consumers are "prioritized" according to their psychiatric condition. In conjunction with the Colorado General Assembly's expressed intent, the State's appropriated funds are used for services to the highest priority consumers. This means, "principally to contract for services for the seriously, critically or persistently mentally ill."⁴

2. Medicaid Consumers

Medicaid consumers must be determined eligible by one of eight Mental Health Assessment and Service Agencies (MHASAs)⁵. Eligibility is made based on the consumer having a covered mental health diagnosis⁶ and a medical necessity for treatment. For consumers who have both a covered and a non-covered diagnosis, the MHASA shall provide all necessary services (including medication evaluation) to treat the covered diagnosis whether this diagnosis is the primary diagnosis or a secondary diagnosis.⁷

The MHASA is not responsible for providing services to treat acute behavioral problems that are not related to a covered mental health diagnosis.

¹ See appendix A for a list of CCBs and their service areas by county

² See appendix B for the developmental delay and developmental disability definitions DDS-00-1

³ See appendix C for a list of CMHCs and their service areas by county

⁴ See appendix D for criteria regarding non-Medicaid targeted consumers

⁵ See appendix E for a list of MHASAs and their service areas by county

⁶ See appendix F for Medicaid Capitation covered diagnoses

⁷ A psychiatric diagnosis that is not covered in the Mental Health Capitation and Managed Care Program may be covered in the Medicaid Fee for Service System (FFS) (i.e. diagnoses such as Autism, Pervasive Developmental Disorder and Sexual Dysfunction). Questions regarding diagnoses covered in the FFS system should be directed to the Department of Health Care Policy and Financing, Customer Service.

IV. Service Determination

A. Developmental Disabilities

The CCBs are solely responsible for determining eligibility and deciding which developmental disabilities services will be provided in partnership with families. Anyone can refer a person to the CCB for a determination of eligibility. The CCB gathers the necessary information and makes a determination based on the definitions contained in state statute and rules and regulations.

B. Mental Health

1. Non-Medicaid Consumers

For non-Medicaid consumers, the CMHCs and Specialty Clinics are solely responsible for identifying "prioritized" consumers and determining which mental health services will be provided. Consumers who are in need of mental health services should be referred to the CMHC or Specialty Clinic within their community.

2. Medicaid Consumers

For Medicaid consumers, the MHASAs are solely responsible for identifying a "covered diagnosis", determining "medical necessity" and authorizing mental health services. Consumers who are in need of mental health services should be referred to the MHASA listed on their Medicaid card. In most areas of the State a consumer can also access their MHASA benefits by going to the local CMHC.

V. Waiting Lists for Receiving Services

A. Developmental Disabilities

Due to limits on State general funds, the DD system maintains a waiting list for services. Only individuals who have been determined eligible by the CCBs and for whom services are not immediately available may be placed on a waiting list. The placement of a consumer on the waiting list and the selection of an individual from the waiting list are determined by their date of eligibility with exceptions for emergency situations.⁸

⁸ See appendix G for Developmental Disabilities' Waiting List Guidelines

B. Mental Health

1. Non-Medicaid Consumers

Many CMHCs have waiting lists for non-Medicaid consumers. Even individuals who meet the State targeted or "prioritized" criteria may be placed on a waiting list. The lists are sometimes necessary when the demand for public mental health services surpasses the funds available through the State's general fund. However, CMHCs are required to screen consumers before placing them on a waiting list to ensure that any necessary crisis services are provided.

2. Medicaid Consumers

MHASAs may not have a waiting list for Medicaid consumers needing medically necessary services. Although access to certain specialized services may not be immediately available, in all instances, the MHASA is responsible for providing an alternative service or offering an appropriate choice of alternatives to the consumer.

VI. Disputes Regarding Eligibility and Services

A. Developmental Disabilities

A dispute regarding DD eligibility should first be directed to the local CCB with a request for an appeal. Disputes regarding a decision to provide, modify, reduce, or deny services in a person's Individualized Plan or disputes regarding termination of DD services may be also be appealed to the CCB.

CCBs are required to provide applicants with a copy of their dispute resolution procedure and assist them with filing a dispute if the consumer so chooses. The process for this appeal includes a formal review and decision by the CCB. If a dispute is not resolved at the local level, it then may be referred to the Department of Human Services for further review and a final decision.

Each CCB is required to have a dispute resolution process, which addresses all complaint issues in addition to those mentioned above.

B. Mental Health

1. Non-Medicaid Consumers

A dispute regarding CMHC eligibility and services should be directed to the local CMHC with a request for an appeal. If the dispute is not resolved at the local level or the consumer chooses not to use the local appeal process, they may appeal to Mental Health Services (MHS) for reconsideration.

2. Medicaid Consumers

A dispute regarding Medicaid eligibility and services should be directed to the local MHASA, with a request for an appeal. The MHASA appeal process must follow the rules and regulations established by the Department of Insurance (DOI)⁹ and Medicaid.¹⁰ Procedures exist for an expedited appeal depending on the emergent nature of the appeal.

If the dispute is not resolved through the MHASA's appeal process, the consumer or his/her representative may request an "Independent External Review".¹¹ The MHASA is required, by State law to contact the Department of Insurance (DOI) to arrange for the independent review and must pay for the service. Procedures exist for an expedited review depending on the emergent nature of the review.

If the consumer disagrees with the findings of the Independent External Review, he/she may request a review by an Administrative Law Judge in accordance with the Medicaid rules and regulations.¹²

VII. Service Responsibilities

Recognizing that each system has specific eligibility requirements and that there are CCB, CMHC and MHASA waiting lists for services, consumers should make their service requests through the most appropriate system based on the etiology of the condition for which they are seeking services.

A. Developmental Disabilities System Services

By contract, each CCB must coordinate to assure the provision of the following services:

⁹ See appendix H for DOI regulation 4-2-17

¹⁰ See appendix I for Medicaid regulation 8.057 - 8.059.174

¹¹ See appendix J for DOI regulation 4-2-21

¹² See appendix I for Medicaid regulation 8.057 - 8.059.174

1. Adult Services

Comprehensive Services are targeted to individuals who require extensive supports to live safely in the community (including access to 24-hour supervision) and who do not have other sources for meeting those needs. Comprehensive services can be either State funded or funded through the Medicaid HCB-DD Waiver and provide a broad array of supports and/or habilitative services including 24-hour Residential Services, Adult Day Services, and Transportation. The vast majority of Comprehensive services are provided through the community CCB system. Comprehensive services are also provided through state-operated Regional Centers. Regional Center comprehensive services are reserved for individuals who are unable to have their needs met through the community system and include services to persons who pose a significant safety risk to themselves and/or the community.

Supported Living Services are intended to augment already available support for adults (over age 18) who either can live independently with limited supports or who, if they need extensive support, are getting that support from other sources, such as their family. Supported Living Services can be either State or Medicaid funded or funded through the Medicaid SLS Waiver. The level of support and supervision varies based on the Individual's needs as identified and prioritized in the Individualized Plan (IP).

2. Children and Family Services

Services that assist families whose children have developmental disabilities (or developmental delays if under age 5) with costs beyond those normally experienced by other families and include the following:

- a) State-Funded Early Intervention Services (birth to three);
- b) State-Funded Family Support Services;
- c) Medicaid-Funded Children's Extensive Support Waiver (birth to eighteen);

Case Management Services are included with all the services described above.

B. Mental Health Services

1. Non-Medicaid Consumers

By contract a CMHC or Specialty Clinic must provide to "prioritized" consumers either directly, or through sub-contract or affiliation provide the following set of core services to non-Medicaid consumers:

- a) Assessment services
- b) Clinical treatment services
- c) Case management services (consumers using a substantial amount of publicly subsidized services must receive case management services) including service planning, linkage, referral, monitoring/follow-up, advocacy, and crisis management
- d) Rehabilitation services for adults and elderly
- e) Day treatment, home-based, family support and/or residential support services for children and adolescents
- f) Residential services for adults and elderly
- g) Vocational services for adults
- h) Emergency services *
- i) Inpatient services*
- j) Psychiatric/medication management services
- k) Interagency consultation
- l) Education of the public
- m) Consumer advocacy and family support

*Clinics are not required to offer these services.

2. Medicaid Consumers

By contract the MHASA must provide or through sub-contract or affiliation provide the following required services to Medicaid consumers:

- a) Inpatient Hospital -- A program of psychiatric care in which the consumer remains 24 hours a day in a facility licensed as a hospital by the State.
- b) Under 21 Psychiatric -- A program of care for consumers under age 21 in which the consumer remains 24 hours a day in a psychiatric hospital, or other facility licensed as a hospital by the State.
- c) 65 and Over Psychiatric -- A program of care for consumers age 65 and over in which the consumer remains 24 hours a day in an institution for mental diseases, or other facility licensed as a hospital by the State.
- d) Outpatient -- A program of care in which the consumer receives services in a hospital or other health care facility, but does not remain in the facility 24 hours a day.
- e) Residential -- Any type of 24-hour care provided in a non-hospital, non-nursing home setting, where the contractor provides room, room and board, or room, board and supervision. Residential services are appropriate for individuals who need 24-hour supervised care in a therapeutic environment.
- f) Physician -- Services provided within the scope of practice of medicine as defined by State law.
- g) Rehabilitation -- Services provided under the Rehabilitation Option of the Medicaid Program.
- h) Psychosocial Rehabilitation -- A broad array of services to maximize consumers' ability to live and participate in the community and to function independently.
- i) Case Management -- Activities that are community-based and are delivered in the consumer's environment.
- j) Medication Management -- Monitoring of medications prescribed and consultation provided to consumers by a physician.
- k) Emergency -- Services provided during a mental health emergency which involve unscheduled, immediate, or special interventions in response to an urgent or crisis situation with a consumer.

VIII. Emergency/Crisis Situations

There are times when a consumer with a developmental disability experiences a crisis situation and needs immediate support from the DD

system or the MH system or both. These emergency situations tend to fall into four categories:

- A. A person with a developmental disability requires immediate comprehensive (24 hour) services (e.g. due to homelessness or imminent danger in the current home environment; this could be due to death or incapacity of the care giver or to aggressive behavior of the person that puts the living environment in danger).

These situations are generally the sole responsibility of the DD system. However, in situations where it appears that the person may also need mental health services the CCB should refer the person to the MHASA if Medicaid eligible or to the CMHC if not Medicaid eligible.

- B. A person with a developmental disability is already receiving services within the DD system and has a crisis related to a mental health diagnosis.

These situations require coordination between the local CMHC or MHASA and CCB.

It is the responsibility of the CMHC or MHASA to determine if the consumer's crisis is related to a mental health diagnosis and if his/her service needs can be addressed through outpatient services or if they should be admitted for inpatient services.

If the consumer is admitted for inpatient services and involved parties agree that the symptoms of the mental health diagnosis are resolved (see Section IX, C-1), it is the responsibility of the CCB to resume DD services when the consumer is ready to be discharged. If the person was in comprehensive services, then it is expected that they will return to comprehensive services. If the person was in Supported Living Services, then it is expected that the CCB will resume those services. If the person in SLS cannot return to their former home and/or no longer can be appropriately supported within the SLS program, then the CCB will pursue alternatives within the DD system (e.g. reviewing comprehensive service openings, potential openings and requesting an emergency resource) to provide comprehensive services. Continued hospitalization is not a substitute for an appropriate DD placement. It is the responsibility of both systems to assure timely and thorough transition planning to assure placement back to the DD system.

- C. A person with a developmental disability who is not receiving services within the DD system has a crisis related to a mental health diagnosis.

It is the responsibility of the CMHC or MHASA to determine if the consumer's crisis is related to a mental health diagnosis and if his/her service needs can be addressed through outpatient services or if they should be admitted for inpatient services.

The CMHC or MHASA should refer the consumer to the local CCB for a determination of DD eligibility and/or for consideration for emergency status if they are already on the waiting list. The local CCB will be responsible to determine eligibility as necessary and provide appropriate planning (with CMHC or MHASA input/involvement) and intervention to address the person's need for DD services.

- D. A person with a developmental disability has a behavioral crisis, not related to a mental health diagnosis and requires immediate intervention.

It is the responsibility of the local CCB to provide or purchase services to assist consumers with non-covered mental health related behavioral problems.

In a service area where DD resources for dealing with non-covered mental health related behavioral issues are limited, it may be desirable for the CCB to propose purchasing services from the CMHC or MHASA. In such situations, one emphasis should be on coordinated case planning and crisis management in anticipation of an emergency situation.

Mental Health Institutes and Regional Centers

A. Eligibility

Consumers are eligible for Regional Center services upon referral by a CCB based on the person's Individualized Plan, and documentation that all local alternatives have been exhausted.

Consumers are eligible for consideration of admission to a Mental Health Institute upon referral by a CMHC or MHASA.

If the services are non-emergent and non-respite, the placement in a Regional Center or Institute must be court-ordered. It should be noted that there are often waiting lists for Regional Center services and a determination of eligibility for Regional Center services does not mean there will be an immediate admission.

B. Service Responsibilities

The Regional Centers and Mental Health Institutes serve consumers with a co-occurring mental illness and developmental disability, based on which condition presents the most emergent need.

1. Regional Centers provide intensive services, either short-term or long-term, to "high-need" individuals with developmental disabilities.
2. Mental Health Institutes provide services to "high-need" individuals with mental illness.

C. Service Coordination

1. Determining whether an individual has received maximum benefit from care at the Institute shall be based on a joint clinical assessment by the Institute, the CMHC or MHASA and CCB and RC, as appropriate; which will determine how to best serve the consumer.
2. The CCB or Regional Center (depending on where the person resided prior to MHI admission) retains primary responsibility for DD services to the consumer and will work cooperatively with the Mental Health Institute and the CMHC or MHASA throughout the Institute stay and during the transition from the Institute.
3. The DD system will continue to provide case management services, for purposes of planning, even if it is determined that a consumer with developmental disabilities will require long-term inpatient services from the Institute.
4. In situations where there is a need for long-term Institute care, the DD and MH system will develop an agreement describing what constitutes maximum benefit and what will be the disposition plan following hospitalization.

D. Interagency Transfers for consumers with a co-occurring mental illness and a developmental disability, found Not Guilty by Reason of Insanity (NGRI) or Incompetent to Proceed must use the following procedures:

1. Persons held under the legal statuses of NGRI or Incompetent to Proceed shall be committed to the custody of the Department of Human Services.
2. The Executive Director of the Department of Human Services may designate the state facility at which the person shall be

held for care and treatment. The Director or designee may transfer the defendant from one agency to another if it is in the interest of the proper care, custody and treatment of the person or the protection of the public or the personnel of the facilities in question.

3. An Interagency transfer between Regional Centers and Institutes may be considered when it has been determined by a joint systems team that the individual has reached maximum therapeutic benefit from treatment in a psychiatric setting and that proper care should be provided in a Regional Center.

An individual may also be transferred if their behavior is such that protection of the public or personnel is required and the person cannot be safely treated in a Regional Center.

For both situations, a combined staffing will occur, including the Institute, the CCB, Regional Center and the CMHC or MHASA to seek resolution and disposition. An Interagency Transfer request will be submitted to the Executive Director for approval.¹³

IX. Technical Assistance

State liaisons from DDS, CHRS and MHS will be available at least annually to meet with CCBs, CMHCs and MHASAs to work on common issues of local interest related to a co-occurring mental illness and developmental disability.

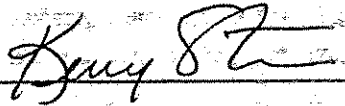
The state will encourage and/or offer other training opportunities for interested persons working with people with a co-occurring mental illness and developmental disability throughout the year and as requested by the contractors.

¹³ See appendix K for "Institutional Transfer Authorization" form

XIV. For the purpose of this state level MOU, the persons named below are designated the representatives of the parties. All notices required to be given by the parties shall be given by mail to the representative named below. The parties may designate in writing a new or substitute representative.

**TO: Office of Rehabilitation and
Disabilities Services –
Developmental Disabilities Services**

Kerry Stern, Acting Director
3824 West Princeton Circle
Denver, CO 80236
303-866-7436

By: 

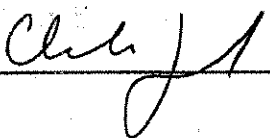
**TO: Department of Human Services,
Office of Rehabilitation and
Disabilities Services**

Bob Rossi, Manager
2800 D Road
Grand Junction, CO 81501
970-255-5963

By: 

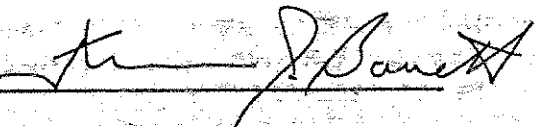
**TO: Department of Human Services,
Division of Children's Health and
Rehabilitation Services**

Claudia Zundel, Acting Director
3824 W. Princeton Circle
Denver, CO 80236
303-866-7528

By: 

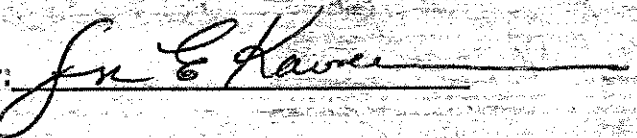
**TO: Office of Behavioral Health and
Housing – Mental Health Services**

Tom Barrett Ph.D., Director
3824 West Princeton Circle
Denver, CO 80236
303-866-7401

By: 

**TO: Department of Human Services,
Office of Behavioral Health and
Housing**

George Kawamura, Manager
3520 W Oxford, Room 216
Denver, CO 80236
303-866-7474

By: 

X. Administrative Dispute Resolution

Administrative disputes regarding responsibility for specific services shall be referred to the Executive Directors of the respective CCB, CMHC or MHASA. The State Agencies expect that the Executive Directors will make all possible efforts to resolve disputes at the local level in the spirit of cooperation and mutual concern for providing the most appropriate services to the consumer.

Disputes that cannot be resolved at the local level (including issues involving Institute and Regional Center placement) shall be referred to the State level Directors of Developmental Disabilities Services, Mental Health Services and Children's Health and Rehabilitation Services. Following a review of the issue by the State agencies, the Directors will render a consensus decision, which will be final and binding on the contractors.

Disputes that cannot be resolved at the local level related to children covered under the Child Mental Health Treatment Act will be referred to and decided by the dispute resolution Committee adopted by HB 1116.

XI. Developing Local Cooperative Agreements

A. The State expects that all parties will enter into negotiating these Local Cooperative Agreements in good faith and will bring both creative solutions and resources to the table.

B. Local Cooperative Agreements shall be developed no later than April 1, 2002 and Contractors shall submit their Local Cooperative Agreement to their respective oversight agency for review no later than July 1, 2002. All Agreements shall comply with Developmental Disabilities Services, Children's Health and Rehabilitation Services and Mental Health Services rules and regulations.