TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control___**580**____Department or Agency__**Mental Health** ___
Rule No. ___**Chapter 580-5-32** _____
Rule Title: ___**Service Standards**
_____New _____Amend ___X ___Repeal _____Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? _____NO_____

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? _____ NO_____

Is there another, less restrictive method of regulation available that could adequately protect the public? _____NO_____

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? _____NO_____

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? _____NO_____

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? _____ YES_____

Does the proposed rule have an economic impact? _____NO_____

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Debbie Popwell

Date 2/23/12

Department of Mental Health

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Mental Health

RULE NO. & TITLE: Chapter 580-5-32 Service Standards

INTENDED ACTION: Repealed

SUBSTANCE OF PROPOSED ACTION:
Repealed because it is no longer necessary. The text appears in another Chapter.

TIME, PLACE, MANNER OF PRESENTING VIEWS:
All interested persons may submit data, views, or arguments in writing to Debbie Popwell, Director, Office of Certification, Alabama Department of Mental Health, 100 North Union Street, Montgomery, Alabama 36130 by mail or in person between the hours of 8:00AM and 5:00PM, Monday through Friday, or by electronic means to debbie.popwell@mh.alabama.gov until and including May 4, 2012. Persons wishing to submit data, views, or arguments orally should contact Ms. Popwell by telephone at (334)353-2069 during this period to arrange for an appointment.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
May 4, 2012

CONTACT PERSON AT AGENCY:
Persons wishing a copy of the proposal may contact
Debbie Popwell
Department of Mental Health/Mental Retardation
100 North Union Street
Montgomery, Alabama 36130
(334)353-2069
A copy of the proposed change is available on the department's website at http://mh.alabama.gov

Debbie Popwell
Office of Certification

ALABAMA DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION DIVISION OF MENTAL RETARDATION ADMINISTRATIVE CODE

CHAPTER 580-5-32 SERVICE STANDARDS "Repealed"

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580-5-32-.01 Eligibility Criteria.

(1) Each person shall be determined to meet the criteria for a diagnosis of mental retardation as specified by the funding and/or other regulatory source.

(2) Documentation shall exist that each person receiving supports meets eligibility criteria in accordance with the 1983 AAMR definition of mental retardation.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Repealed and New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.02 **Functional Assessments.** Each person shall have a current functional assessment.

(1) At a minimum, the following areas shall be addressed in the assessment: personal preferences, family/home situation, health needs, activities of daily living, vocational needs, communication skills, leisure activities, physical supports (i.e. use of devices such as wheelchairs, walkers, or other assistive devices), and social supports.

(2) The individual functional assessment shall be updated annually in conjunction with the program plan, and may include discipline-specific assessments.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Repealed and New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.03 **Individual's Support Team.** Each person shall have an identified support team.

(1) Team members shall include the person's family members and/or guardian or advocate, representatives of all service providers, particularly staff responsible for program implementation, and others as indicated by the person's life situation, needs, desires, and age, in the case of children, and any other persons requested by the consumer or determined to be of important support to them.

(2) At least one team member shall be a QMRP as defined by the Medicaid MR/DD Home- and-Community-Based Services Waiver, or the Alabama Living at Home Waiver.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Repealed and New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.04 **Support Team Meetings.** Support team planning meetings shall be scheduled, at least annually, at the convenience of the person as well as to facilitate other team members' attendance.

(1) The initial planning meeting shall be convened within 30 days of admission to service.

(2) Annual meetings shall be convened within 365 days of the previous meeting.

(3) Special planning meetings shall be convened as needed, particularly when a major life change is being contemplated for or by the consumer. A clearly defined process shall be in place for convening meetings. Meetings may be called at any time by the consumer and/or their advocate.

(4) Each person and, with the person's permission, his/her family members or significant other, shall be invited to actively participate in discharge and transition planning. Information shall be presented to the person in language and terms appropriate for the person to understand.

(5) Information (general topics) which will be discussed in a planning meeting shall be presented and communicated to the consumer in a method he/she understands and/or to the legal guardian prior to the scheduled meeting, except in the event an emergency meeting is necessary.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: Repealed and New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.05 Support Plan. Each person shall have a support plan that is person-centered and is developed based on his/her desires, requirements, and preferences as documented in the individual functional assessment.

(1) Information used in planning shall be obtained directly from the person to the greatest extent possible or from the people who knows him/her best.

(2) Additional information to consider in the planning process shall include observations of the person and information obtained from other team members who know the person best.

(3) Goals shall be prioritized in the support plan according to the person's preferences.

(4) Each person's support plan shall have specific goals designed to achieve desired individualized personal outcomes. The desired personal outcomes are defined in such a way to address those preferences of the person; they are attainable within a specified timeframe; and they enhance the person's life.

(a) Goals promote being present and participating in community life;

(b) Goals promote gaining and maintaining satisfying relationships;

(c) Goals promote expressing preferences and making choices in everyday life;

(d) Goals promote having opportunities to fulfill respected roles and to live with dignity;

(e) Goals promote continuing development of personal competencies.

(5) Each person's support plan shall include learning, participation and service opportunities that are meaningful, functional, and person driven, and enhance the dignity of the person.

(6) Learning opportunities shall be aimed at attaining and maintaining skills, health and well-being, enhancing community integration, and developing social relationships, utilizing the least restrictive means available, based on the person's preferences, and using generic supports and an integrated environment.

(7) Objectives shall be developed to address behaviors that interfere with the achievement of personal goals or the exercise of individual rights using the least intrusive interventions necessary and the most positively supporting interventions available.

(a) Behavior support plans shall be based on an assessment of the functions of the behaviors.

(b) Potential medical causes for the behavior shall be ruled out or resolved by a physician prior to the implementation of a behavior reduction/support plan, if the behavior is one that could potentially have a medical cause.

(c) Behavior reduction/support plans shall be implemented in accordance with and as an integral part of the individual written, support/habilitation plan.

(d) Behavior plans shall utilize the least restrictive contingencies necessary, and shall comply with guidelines for behavior programming as approved by DMH/MR.

(e) Behavior plans utilizing restrictive techniques shall be review by the Agency's Human Rights Committee prior to implementation.

(f) There shall be evidence that the individual's support team has reviewed data associated with behavioral challenges and behavior plans, and has addressed any changes that might be required to facilitate the individual's success in acquiring more socially acceptable behavior(s).

(8) Each learning opportunity shall have a strategy for implementation that specifies who is responsible, when, where and how the opportunity is to be carried out, frequency of implementation and methods of data collection to assess achievement.

(9) Staff responsible for implementing the support plan shall receive pertinent training prior to its implementation. Training should be consumer-specific.

(10) The effectiveness of the implementation of each person's support plan shall be reviewed and documented at least every 90 days in accordance with funding source requirements.

(a) Each learning, participation, or service opportunity shall be assessed for progress/achievement.

(b) Medical/health services provided shall be documented. A medication management plan is maintained and updated at least annually and more often as changes are made in consumer's medication regimen.

(c) Community integration activities shall be documented.

(d) Effectiveness of an individual's behavior support plan shall be reviewed periodically, but at least annually, or more often as required by the individual's needs.

(e) Revisions/changes in the support plan shall be made if the person is not benefiting from identified opportunities.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.06 **Supported Employment.**

(1) Consumers who choose not to seek employment shall be supported in selecting meaningful activities.

(2) Consumers who are interested in seeking employment shall be assisted in locating work that matches their goals, interests, and aptitudes.

(3) If applicable, assistive technology shall be utilized to increase a consumer's employment options.

(4) A job coach shall be utilized to support a consumer who is engaging in employment who needs that assistance/level of supports or to the level of assistance the individual requires.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.07 **Values And Rights Affirmation.** Persons with mental retardation have the same civil and legal rights as other citizens of Alabama guaranteed by the U.S. Constitution and State and Federal Laws. Support of individual rights shall be incorporated into the daily lives and services provided to persons to ensure quality of life. Individual rights and responsibilities shall be incorporated in the assessment, planning, and habilitation processes.

(1) These rights include but are not limited to the following:

(a) Exercise rights as a citizen of the United States and the State of Alabama.

(b) Be served through general services available to all citizens.

(c) Choose to live, work, be educated, and recreate with persons who do not have disabilities.

(d) Be presumed competent until a court of competent jurisdiction, determines otherwise.

(e) Vote and otherwise participate in the political process.

(f) Free exercise of religion

(g) Own and possess real and personal property.

(h) Use services in a safe and humane environment.

(i) Social interaction with members of either sex.

(j) Marry and divorce.

(k) Be paid the value of work performed.

(l) Exercise rights without reprisal.

(m) Confidential handling of personal, financial, and medical records.

(n) Privacy, dignity and respect.

(o) Access to and privacy of mail, telephone, and visitors.

(p) Receive only those drugs and medications which are prescribed in accordance with established standards of medical care.

(q) Have physical and chemical restraints used only in accordance with established standards of medical, social, and educational care, taking into consideration the individual's health status.

(r) Freedom from any form of abuse, neglect, coercion, reprisal, intimidation or exploitation.

(s) A free and appropriate education in accordance with the laws of the State of Alabama.

(t) Access to dental, medical, vision and hearing services.

(u) Informed concerning services provided and any associated costs.

(v) Informed of complaint/grievance procedures and appeal process.

(w) Informed of how to access advocacy and rights protection services.

(x) Adequate food and shelter when receiving residential services.

(y) Interpreter when consumer is deaf, as appropriate.

(2) Affirmation and protection of each person's welfare, including their civil and legal rights as citizens of Alabama as guaranteed by State Laws, Federal Laws, and the U.S. Constitution must be evident.

(a) Rights of individuals served by the agency have not been violated.

(b) The rights and limitations of rights of consumers who are under nineteen years of age are recognized and enforced.
Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.08 **Informed Of Rights And Responsibilities.** Every person shall have the right to be informed of their rights and responsibilities as citizens of the United States and of the state of Alabama.

(1) The agency shall document upon admission and annually thereafter, verification that it provides to persons and their guardians an oral and written summary of rights/ responsibilities and how to exercise them, in language and style that is easily understood.

(2) Each person's ability to understand and exercise their rights shall be assessed and assistance provided in identified areas of need as determined by the individual support team.

(3) There shall be written policies and procedures that protect each person's welfare, the manner in which the person is informed of these rights, responsibilities and protections, and the means by which these protections will be enforced.

(4) Each consumer shall be informed of his/her rights and responsibilities. If the consumer is not able to understand these rights and responsibilities, the legal guardian/advocate shall be informed of them.

(5) The rights of legal guardians to be informed regarding the consumer's activities shall be recognized and are enforced.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32.09 **Due Process.** Every person shall have the right to due process with regards to complaints/grievances and rights restrictions. Due Process is, for these purposes, defined as providing the consumer, and/or their family or guardian, with a fair process which requires, at least, an opportunity to present objections to the proposed action being contemplated.

(1) At a minimum, the complaint/grievance procedures shall include:

(a) The name and telephone number of a designated local contact within the entity.

(b) The designated person shall be able to inform persons of the means of filing grievances and of accessing advocates, ombudsmen, or rights protection services within or outside the agency.

(c) Grievance procedure information shall be available in frequently used areas, particularly where people receive services. Such notices shall include the 800 numbers of the DMH/MR Advocacy Office, federal protection and advocacy system (ADAP) and local Department of Human Resources.

(d) Agency shall provide access to advocates, including a DMH/MR internal advocate, and the grievance/complaint process without reprisal.

(2) Procedures for the initiation, review and resolution of complaints and grievances shall be explained to the consumer/advocate and legal guardian.

(3) Due process shall be implemented when it is proposed that a person's rights be restricted for any reason. Due process shall include a review by a Human Rights Committee.

(4) Prior to imposing a rights restriction, the person shall meet with his/her support team to discuss the reason for the proposed restriction, except in extreme emergency to prevent the person from harming self or others.

(5) Criteria for removing the restriction shall be developed and shared with the person and legal guardian at time of imposing the restriction.

(6) The continued need for the restriction shall be reviewed at least quarterly or more often upon request of the restricted person.

(7) Training that supports the removal of a rights restriction shall be provided to the person.

(8) A Human Rights Committee shall review any restriction of a person's right(s) periodically during the period which the restriction is imposed and will document such.
Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.10 Safe And Humane Environment. The provision of services in a safe and humane environment is demonstrated while providing for dignity of the individual.

(1) Each agency shall adhere to the applicable certification and licensure standards, statutes, and regulations regarding the physical environment as required by the Life Safety Code and DMH/MR.

(2) Each agency shall monitor housekeeping and routine maintenance and repair to ensure safe conditions throughout the agency and physical plant.

(3) Each person's personal health and hygiene needs shall be recognized and addressed in a safe and humane manner.
Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.11 Privacy/Confidentiality. Every person shall have the right to privacy and confidentiality.

(1) The agency shall afford every person the right to privacy relative to their care, unless contraindicated by clinical determination made by the support team for therapeutic or security purposes.

(2) Emergency determinations limiting privacy shall be reviewed and documented by the person's support team.

(3) Each person's privacy shall be respected during toileting, bathing, and personal hygiene activities to the greatest extent possible.

(4) Procedures for conducting searches shall be followed and shall meet standards of professional practice when such is necessary for the safety and security of the person, others, and/or the physical environment.

(5) Persons shall be advised whenever special observational equipment, such as two-way mirrors, cameras, etc., is used. A written, informed consent shall be signed by the person prior to the initial use of such equipment.

(6) Each agency shall ensure that all information in a person's record(s) is kept confidential, including any financial information, in accordance with state and federal laws and regulations, and particularly in accordance with HIPAA regulations.

(7) Each agency shall ensure that only individuals directly involved in a person's care, authorized administrative review, or in the monitoring of its quality, shall have access to his/her records, unless other access is permitted under state and federal laws and regulations.

(8) No person's record(s) shall be released to other individuals or agencies without the written, informed consent of the person or their legal guardian except for requests in accordance with state and federal laws and regulations (e.g. emergencies) and so documented. Such requests shall fulfill all requirements of HIPAA.

(9) The agency shall be responsible for the safekeeping of each person's records and for securing it against loss, destruction, or use by unauthorized persons.

(10) Medical/treatment/service records shall be maintained by the agency for at least 5 years.

(11) Protected health information relating to HIV-positive consumers shall be maintained separately from other medical records and is kept strictly confidential. The consumer/guardian must give consent before staff members can be informed regarding the individual's condition.

(12) Every person shall have the right to access, upon request, all information in his/her records.

(13) The agency shall follow established procedures regarding the content of a person's records and procedures for release or disclosure of parts thereof.

(a) Confidentiality of all personal information including protected health information shall be maintained in accordance with HIPAA regulations.

(b) Privacy of the individual shall be maintained in accordance with HIPAA regulations and shall include the search of consumer's personal property and/or living quarters.

(c) Access to all information in his/her records shall be available to the consumer and/or legal guardian/advocate.

(14) Access to and privacy of mail, telephone communications, and visitors shall always be implemented.

(15) Persons served shall be provided adequate opportunities for private interaction with others.

(16) No restrictions shall be imposed by the agency which would prohibit the person from communicating with advocacy officials, legal counsel, family, significant others, or personal physician, unless legally restricted or otherwise restricted in accordance with the standards herein. Consideration will be given to restrictions which may be necessary when consumers are children.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.12 Informed Regarding Services. Every person shall have the right to be informed about the provision of services, any applicable charges for services, and any limitations placed on the duration of the services.

(1) Upon admission, the agency shall discuss with the consumer and legal guardian/advocate, and shall provide every person a written statement of, services that will be provided to the person and related charges, including limitations placed on the duration of services and/or charges related to such services.

(2) Persons who are responsible for payment of charges for services shall be informed of any changes in services or limitations placed on duration of services prior to their occurrence during the service relationship.

(3) All such information shall be presented to the person in language and terms appropriate to the person's ability to understand.

(4) Written informed consent prior to participation in any research or experimentation, including information presented in a non-threatening environment, in language and format appropriate to the person's ability to understand, shall always be documented.

(5) Each agency shall provide any person who is asked to participate in a research or experimental project full information regarding procedures to be followed, potential discomforts, and/or risks, and expected benefits of such projects before consent is sought.

(6) The person may withdraw or withhold consent at any time without coercion or reprisal.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.13 Free From Abuse, Neglect, Mistreatment And Exploitation. Every person shall have the right to be free from physical, verbal, sexual, or psychological abuse, exploitation, coercion, reprisal, intimidation, or neglect.

(1) Continuous efforts to ensure freedom from physical, verbal, sexual, or psychological abuse, exploitation, neglect, mistreatment, coercion, reprisal, or intimidation, shall be demonstrated by agency policy and practice.

(2) Allegations or suspected incidents of physical, verbal, sexual, or psychological abuse, mistreatment, neglect, or exploitation, coercion, reprisal, or intimidation of persons, regardless of age, being served by the agency shall be reported:

(a) to the Department of Human Resources in accordance with applicable statutory requirements,

(b) to law enforcement if criminal behavior is involved,

(c) to the DMH/MR Regional Community Service office within 24 hours.

(3) Each agency shall actively investigate any suspected abuse and/or neglect, etc. of persons served.

(4) Incidents resulting in injury where both the perpetrator and the victim receive services by the entity shall be investigated to determine if the occurrence of such incident may have been the result of neglect.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: **New Rule:** Filed February 4, 2005; effective March 11, 2005.

580-5-32-.14 **Other Rights.**

(1) Every person shall have the right to free exercise of religion.

(a) Persons served shall be provided adequate opportunities to participate in religious activities of their choice. The choice to not participate shall also be respected.

(b) Free exercise of religion shall include attendance of religious services as consumer desires; services attended shall be those of the consumer's choice.

(2) Every person shall have the right to be accorded dignity and respect on an individual basis. Observations of staff behavior/interactions illustrate that consumers are treated with dignity in all environments.

(a) The consumer shall be referred to by his correct name, unless otherwise specified by the choice of the individual that others use a preferred name.

(b) The consumer shall be given the opportunity to make choices regarding his/her life.

(3) Processes to ensure that freedom to exercise rights without fear of reprisal or restriction shall be implemented.

(4) Physical and chemical restraints shall be used only in accordance with established standards of medical, social, and educational care, in accordance with DMH/MR standards and guidelines of Behavioral Programs, as applicable, taking into consideration the health status of the person involved and only after approval by the consumer's interdisciplinary team.

(a) Use of physical and/or chemical restraints shall be reviewed by the Human Rights Committee

(b) Reasons for the administration of drugs that change thought functioning or behavior shall be clearly documented by the prescribing physician.

(c) There is no written or oral evidence that the reasons for administration of medications were punishment, discipline, or staff convenience.

(5) Adequate food and shelter when receiving residential supports shall be provided.

(a) Shelter shall meet standards for physical facilities and shall be comparable to that of other homes in the neighborhood.

(b) Food shall be varied and nutritionally sound, based on recommended nutritional requirements for the consumer's age and health status and special dietary needs.

(c) Meals shall be provided at the times of day which are traditional times or when the consumer desires that food be served.

(d) Snacks shall be available, selected according to personal preference, (but taking into account the individual's health status as diagnosed by a physician), and accessible to persons in the home.

(6) Access to dental and medical care and all other allied health services (e.g. vision, hearing, speech, physical and occupational therapy) shall be provided in accordance with Best Practice Guidelines for Healthcare.

(a) Every person shall be provided assistance in accessing prompt and adequate medical and dental treatment. The primary provider utilized shall be selected taking into consideration person's personal preference.

(b) Persons shall be referred to other health and/or dental services as deemed necessary by their support team.

(c) No agency shall prohibit a person from accessing dental or medical services of his/her choice. Such should not be construed to be an obligation for the agency to provide/pay for such services.

(7) Access to services in the community and local neighborhood shall be provided; inclusion in the community with appropriate and adequate supports is evidenced.

(a) There shall be evidence that people served use services of their choice in their community and assistance/ support is provided to access generic services/ entitlements (such as food stamps, HUD housing vouchers, etc.).

(b) Consumers shall participate in planned community-based activities of their choice at least weekly.

(8) Every person age 18 and over shall have the right to vote and otherwise participate in the political process in the United States and the State of Alabama.

(a) The agency shall assist people over the age of 18 who choose to register to vote and cast their vote.

(b) Consumers shall be instructed regarding the process of voting in an impartial manner.

(9) Every person shall have the right to be presumed competent unless a court of competent jurisdiction determines otherwise.

(a) No person shall be presumed incompetent or denied the right to manage his/her financial or personal affairs or exercise all other rights guaranteed persons of society solely by reason of his/her having received support services, unless legally determined otherwise or unless evidenced by clinical contraindication.

(b) There shall be evidence that each individual's ability to exercise his rights is assessed by the individual's interdisciplinary team.

(10) Every person shall have the right to enforce his rights in a court of competent jurisdiction or appropriate administrative proceeding.

(a) Unless a legal determination of incompetence has been made, every person shall be free to access courts, attorneys, and administrative procedures, execute instruments,

dispose of property, marry and divorce or to participate in those activities generally requiring legal representation, without fear of reprisal, interference, or coercion.
Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.15 **Access To Individualized Services.** Every person shall have the right to access individualized services. Each entity shall provide individualized supports/services that are free from discrimination by race, sex, age, language, ethnicity, disability, religion, sexual orientation, or financial circumstances.
Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.16 **Medication.** In order to protect the health and welfare of persons served, no prescription or nonprescription medication shall be administered without a current written order from a physician certified registered nurse practitioner, physician's assistants or dentist. A copy of each consumer's prescription(s) shall be kept in the facility/agency that administers medication.

(1) The unit dose or individual prescription system shall be used for all prescription drugs.

(2) All medications shall be labeled and stored in accordance with criteria herein.

(a) Medications shall be stored under lock and key;

(b) Narcotic medications shall be stored under double lock and key;

(c) Medications shall be stored separately from non-medical items;

(d) Medications shall be stored under proper conditions of temperature, light, humidity, sanitation, and ventilation.

(e) Internal and external medications shall be clearly labeled as such and stored separately from each other.

(3) Medications, both prescription and non-prescription, shall be administered and recorded according to valid orders and in compliance with the Nurse Practice Act and Administrative Code.

All consumers receiving psychotropic medication shall be seen and evaluated by a licensed physician, preferably a psychiatrist, at intervals not to exceed a six-month period and will receive information relative to risks and benefits of the medication.

(4) Prescription medications shall be used only by the person for whom they are prescribed. Over-the-counter (OTC) medications must be issued to or retrieved by a resident from residents own supply as per a valid medication order.

(5) Each prescription medication shall be identifiable up to the point of administration. Identifiable means that it is clearly labeled with the name of the person, name of the medication and specific dosage. Prescription medications labels shall also state the expiration date.

(6) All medication errors and reactions to medications shall be recorded and reported in accordance with written policy, the incident prevention and management plan, and the Medication Assistance Training program.

(7) Documentation of corrective action taken in regards to medication errors shall be maintained by the agency.

(8) Discontinued and outdated medications shall be promptly disposed of in a safe manner; disposal can be implemented only by a nurse, pharmacist, or physician, and must be witnessed and documented in accordance with policy.

(9) Each person who receives medication shall receive medical supervision by the prescribing physician, to include regular evaluation of the person's response to the medication.

(a) Blood level examinations for people receiving anti-convulsant and psychotropic drugs shall be repeated as often as clinically indicated for potential toxic side effects and to ensure levels are within therapeutic range.

(b) Factors/criteria to be taken into account for consideration of medication reductions shall be identified, assessed, and documented. Potential reduction of medication

shall be discussed with the physician and documented, and may only be ordered by a physician.

(c) Results of most recent blood level examination shall be maintained in any agency in which medications are administered. In the event that a copy of blood work cannot be obtained, a letter from the physician stating that the consumer is in his usual state of health will be adequate.

(10) A person may administer their own medication when all of the following have been established and documented:

(a) The person has been provided with information regarding the purpose, dosage, time, and possible side effects of the medication and has verbalized/effectively communicated understanding.

(b) The person has been instructed regarding what to do and whom to call if a dose if missed, extra medication taken, or an adverse reaction experienced and has verbalized/ effectively communicated understanding.

(c) The person has been educated in the maintenance of his or her own medication history, and in the recording of information needed by the physician to determine medication and dosage effectiveness and has verbalized/effectively communicated understanding and the consumer can perform a competent return demonstration of self-administration of medication.

(11) Medication being utilized by a consumer for self-administration shall not be locked away from him/her; however, it shall be secured out of reach of consumers who have not been determined to be capable of self-administering his/her own medication.

(12) Self-medication shall be discussed during the person's annual support team planning meeting and any concerns noted in this area are addressed and documented.

(13) Staff shall support self-administration of medication through monitoring and documentation.

(14) For residential services, there shall be a registered nurse or licensed practical nurse as a full-time or part-time employee or consultant to the provider who is responsible for supervision of delegation of medication assistance to the unlicensed personnel. Access to an on-call nurse must be available 24 hours a day, seven (7) days a week. Providers will implement policies and procedures approved by their Boards of Directors requiring full compliance with the

Alabama Board of Nursing's regulation 610-X-6-.15, Alabama Department of Mental Health Residential Community Programs.
Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: **New Rule:** Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed March 27, 2007; effective May 1, 2007.

580-5-32-.17 Health Services. The agency/provider shall assure that each individual's health needs are addressed in a timely and adequate manner, consistent with best practices of health care for any citizen.

(1) Within 365 days prior to initial admission to a community-based program or service, including any program or service to be funded through a Medicaid Home and Community Based Waiver program, each person shall have a physical examination conducted by a licensed physician.

(2) Each person's medical status and needs shall be reviewed annually within 90 days prior to or at the same time as the annual support plan meeting. This shall be accomplished by a report from a physical examination by a licensed physician conducted within the last year. Alternately, a Registered Nurse may conduct and document a review of health records including the most recent physical exam conducted and the previous year's medical records.

(3) Each person's plan shall indicate their health needs and outline specific actions and time frames to address these needs. Actions taken shall be documented. Health needs may include, but are not limited to, physical, neurological, dental, nutrition, vision, hearing, speech/language, PT/OT and psychiatric services.

(4) People shall be assisted to obtain preventive and routine health services including physical examinations, immunizations and screenings that are consistent with their age and risk factors as recommended by their personal physician. A preventive health plan, contained in the person-centered plan, based on consumer's current health status and age will be implemented and will be carried out according to the Centers for Disease Control recommendations as to preventive/ screening practices. Emphasis will be placed on age-specific screening tests.

(5) Each new admission shall have a TB skin test with documented results, unless there is written evidence that such

testing has previously been done or there is a medical contraindication for the procedure. An annual TB skin test shall be conducted as medically indicated. If skin test yields a questionable result, follow-up shall consist of a chest x-ray for verification of results by a physician.

(6) The agency shall obtain immediate medical attention for a person served in the event of a serious illness or injury. All interventions shall be clearly documented.

(7) The agency shall ensure that each individual's health care needs are met as evidenced as follows:

(a) Persons who require supports for mobility of their body shall be provided with assistance and supports to prevent skin breakdown.

(b) An individual who develops a medical problem has been assessed and treatment/care and monitoring of the individual's condition shall be provided in accordance with good standards of nursing or medical care to resolve the problem in an effective and timely manner.

(c) Nursing interventions shall be implemented as required by the Individual Support Plan.

(8) The agency shall make arrangements for comprehensive dental diagnostic and treatment services for each individual served, to include the provision of emergency dental care/treatment, unless this care is arranged for by the individual's family.

(9) The agency shall maintain a summary of dental services for the individual to include a brief notation of each visit and any care instructions to be followed as a result of treatment. Families who arrange for dental care for the individual are encouraged to provide the agency with information on the individual's dental status and care needs according to the dentist.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: **New Rule:** Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed March 27, 2007; effective May 1, 2007. **Amended:** Filed October 9, 2007; effective November 13, 2007.

580-5-32-.18 **Personal Care (Hourly) Services.**

(1) Eligibility. Personal Care/Hourly services are provided to individuals in their own home who are qualified to receive mental retardation services as an alternative and preference to institutional care to promote self-determination. Hourly services include companion services and residential-other living arrangement services.

(2) Agency Responsibility. The agency shall perform all responsibilities and maintain all documents required by the funding source and DMH/MR for the provision of personal care/hourly services.

(3) Qualified Workers. The agency that employs or contracts with persons to provide personal care/hourly services shall ensure that those workers meet the qualifications for employment as required by the funding source.

(4) Trained Staff. The agency shall provide to the worker an adequately detailed plan (Personal Care Plan and any required addenda with specific instructions) of what the worker is required to do for the consumer for the time period that hourly services are being provided.

(a) The agency shall provide training to the worker on what to do and how the consumer wants to be supported.

(b) Training shall have been provided to the worker, prior to beginning hired, in the following areas:

1. Review of the Personal Plan of Care.

2. Information about the specific condition and required supports of the person to be served, including his/her physical, psychological or behavioral challenges, his/her capabilities, and his/her support needs and preferences related to that support.

3. Training in CPR and first aid; behavioral intervention techniques appropriate to the consumer; and, training in assisting the individual with self-medication.

4. Review of the rights and responsibilities of the provider and the consumer.

5. Reporting and record keeping requirements.

6. Procedures for arranging backup worker when needed.

7. Who to contact within the provider agency or regional community services office.

(5) Support Plan. A support plan shall be developed and approved for the consumer receiving hourly services; there shall be documentation establishing that the plan has been followed and has been modified as needed.

(a) The support plan shall be adequately detailed so that the worker can provide the services required by the individual.

(b) The support plan shall be approved by the Division of Mental Retardation, if services exceed eight (8) hours or more per day of services.

(c) Documentation of the provision of identified services/supports shall be available.

(d) The support plan shall be developed with input from the consumer and their guardian/ family/advocate.

(e) The consumer/guardian/family/advocate shall be satisfied with the support plan and services rendered.

(6) Supervision of Services. A Qualified Mental Retardation Professional (QMRP) shall supervise the provision of personal/hourly services to the consumer, shall evaluate the continued appropriateness of such services, and shall make changes when the consumer's needs or desires are not being met.

(a) There shall be an assigned QMRP to provide oversight of the worker and of the consumer's service/support plan.

(b) The QMRP shall conduct a site-visit at least every 90 days, and more often if needed.

(c) The QMRP shall make assessments of the effectiveness of the service, consumer/ family satisfaction with the service, and institutes any changes that may need to be made.

(d) There shall be documentation establishing that the QMRP has taken corrective or improvement actions in a timely manner as need indicates.

(e) There shall be documentation establishing that the agency has monitored the consumer's continued need for hourly services.

1. If the need for hourly services extends beyond 8 hours per 24 hour period, there shall be evidence that the consumer and his team have met to discuss a viable alternative service which will meet his needs.

2. If hourly services prove to be inadequate to meet the consumer's needs, a viable alternative which proves to be acceptable to both the consumer and his legal guardian/advocate must be located prior to discharging the consumer from hourly services.

(7) Transportation Services. Staff who provide transportation services as part of hourly services shall have a valid driver's license and insurance as required by State law. Applicable state laws shall apply to individuals involved in accidents and/or moving violations. Loss of driving privileges could result in suspension and/or termination of employment.

(8) Respite Services. Agencies providing respite services as a variant of hourly services shall provide evidence that a temporary support plan was formulated prior to the consumer's arrival, and was documented and carried out for the consumer while he was served by the agency.

(9) Daily Summaries. For both hourly services and respite services, a daily summary of the consumer's activities and progress according to his service/support plan shall be documented.

(a) The agency shall maintain a copy of the daily plan and daily summary of activities to provide evidence that services were delivered to the individual.

(b) The agency's assigned worker shall document problems encountered in the delivery of personal/hourly services, and shall notify the supervisor/QMRP so that issues can be addressed and resolved.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-32-.19 **Case Management Standards.** Case Management services assist individuals in gaining access to needed medical, social, educational, vocational, and other services and supports in order that they may live a healthy, independent and productive life.

(1) The Case Management agency must meet the following requirements:

(a) Demonstrate the capacity to provide the core elements of case management, including assessment, care and services plan development, linking and coordination of services, and reassessment and follow-up;

(b) Demonstrate case management experience in coordinating and linking community resources as required by persons with mental retardation;

(c) Demonstrate experience with providing services and supports for persons with mental retardation;

(d) Demonstrate the administrative capacity to ensure quality of services in accordance with state and federal requirements;

(e) Maintain a financial management system that provides documentation of services and costs;

(f) Demonstrate the capacity to document and maintain individual case records in accordance with state and federal requirements;

(g) Demonstrate the ability to ensure a referral process consistent with Section 1902(a)23 of the Social Security Act, freedom of choice of provider;

(h) Demonstrate the capacity to meet the case management service needs of persons with mental retardation;

(i) Demonstrate that each case manager has received training in an approved training program certified by Medicaid to address the needs and problems of the individuals served;

(j) Maintain a quality assurance/enhancement program for case management services approved by the Alabama Department of Mental Health and Mental Retardation (DMH/MR). The quality assurance program includes record reviews at a minimum of every six months;

(k) Fully comply with Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990;

(l) Fully comply with applicable federal and state laws and regulations.

(2) The minimum qualifications for individual case managers are as follows:

(a) Bachelor of Arts or a Bachelor of Science degree, preferably in a human services related field or social work program; or licensure as a registered nurse; and

(b) Completion of mandatory training in a case management curriculum approved by the Alabama DMH/MR and Medicaid.

(3) The Core Elements of Case Management performed by the assigned case manager are:

(a) Needs Assessment - The case manager performs a written comprehensive assessment of the individual's assets, needs, supports, goals and preferences by gathering information as follows:

1. Identifying Information

2. Socialization and recreational needs

3. Training needs for community living

4. Vocational needs

5. Physical needs

6. Medical care needs and concerns

7. Social and emotional status

8. Housing and physical environment - to include coordinating and assisting in crisis intervention and stabilization;

9. Resource analysis and planning - to include

(i) assessing and managing financial resources so that requirements of the individual and the funding agency are met;

(ii) maintaining accountability to the individual for his funds, as applicable.

(b) Case planning - The case manager must coordinate, along with the individual's QMRP(s), the development of a systematic, person-centered plan that lists the actions required

to meet the identified needs and desires of the individual based on the needs assessment. This plan must incorporate all services/supports received by the individual, to include case management activities, and the Medicaid Plan of Care document.

1. The Plan must be developed through a collaborative process involving the individual, his/her family or other support system, all service/support agencies, and the case manager.

2. The Plan must be completed in conjunction with the needs assessment within the first 30 days of contact with the individual.

3. The Plan must be updated at least annually (within 365 days) and include target dates.

(c) Service arrangement - The case manager, through linkage and advocacy, coordinates contacts between the individual and the appropriate person(s) or agency(ies).

1. The case manager calls or visits these persons or agencies on behalf of the individual.

2. The goal of service arrangement is to:

(i) assist consumers in accessing learning, participation and support opportunities and optimizing independence through support and training in the use of personal and community resources;

(ii) assist consumers in accessing supports, for example, screening tests to address health issues as needed and coordinating transportation as needed for consumers served.

(d) Social support - The case manager, through interviews with the individual and significant others:

1. Determines whether the individual possesses an adequate personal support system.

2. If the support system is inadequate, the case manager assists the individual in expanding or establishing such a network through advocacy and linking the individual with appropriate persons, support groups, or agencies.

(e) Reassessment and follow-up - The case manager evaluates, through interviews and observations, the individual's status and progress toward accomplishing the goals listed in the support plan at intervals of 90 days or less.

1. The case manager contacts persons or agencies providing services to the individual and reviews the results of these contacts, together with the changes in the individual's needs shown in the reassessments, and

2. Revises the support plan as necessary.

3. The case manager must maintain ongoing documentation of services so there is clear evidence that pressing issues are addressed;

4. Team meeting minutes are documented.

5. There must be a face-to-face visit by the case manager with the individual at least every 90 days.

6. Documentation provided by the case manager shall include:

(i) a 90-day narrative which addresses the appropriateness of the support plan, and any health or safety issues, and a summary of the progress or lack of progress toward goals in the support plan, to include progress notes of case management activities;

(ii) a review of the functional assessment to ensure continued adequacy and accuracy (review ICAP with provider if changes have occurred in the person's life);

(iii) dating and initialing the support plan and the Medicaid Plan of Care within every 90 days.

(f) Monitoring - The case manager determines what services have been delivered and whether they adequately meet the needs and desires of the individual to assure movement toward both short-term and long-range goals.

1. The support plan must be revised, as appropriate, as a result of monitoring or changes in the individual's status.

2. Monitoring of individuals and services must occur as frequently as necessary to assist the individual's progress towards their goals, with face-to-face contact made with the consumer at least once every 90 days.

(4) Each consumer has a specific point of contact within the case management agency and is notified in a timely manner should that point of contact change.

(5) The consumer and family/guardian are informed of the procedures for terminating case management services.

(6) Prior to a consumer being discharged from a service, a transition plan and/or discharge plan as applicable must be completed which includes a summary of services utilized, the reason for the discharge/transition and future supports which will be needed, if any. The case manager should attend the transition plan meeting or follow up to see that a transition and/or discharge plan is completed.

Author: Division of Mental Retardation, DMH/MR
Statutory Authority: Code of Ala. 1975, §22-50-11.
History: New Rule: Filed May 10, 2005; effective June 14, 2005.