Beverly A. H. Buscemi, Ph.D.
State Director
David A. Goodell
Associate State Director
Operations
Susan Kreh Beck
Associate State Director
Policy
Thomas P. Waring
Associate State Director
Administration

SOUTH CAROLINA Department OF Disabilities AND Special Needs

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
803/898-9600
Toll Free: 888/DSN-INFO
Website: www.ddsn.sc.gov

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Applicability:	All DDSN Divisions; DDSN Regional Centers; DSN Boards and Contract Service Providers

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INTRODUCTION:

This directive establishes policies and procedures for appeal and reconsideration of decisions concerning eligibility for and services provided by the South Carolina Department of Disabilities and Special Needs (DDSN), Disabilities and Special Needs Boards, and Contracted Providers. Authority for this procedure is set forth in S.C. Code Ann. § 44-26-80, (Supp. 2014) relating to the rights of individuals receiving services from DDSN.

POLICY:

It is the policy of DDSN that each applicant or service recipient has the right to appeal or request reconsideration of adverse decisions made by DDSN, DSN Boards, or Contract Service Providers. Each DDSN Division, DDSN Regional Center, DSN Board, and Contract Service Provider shall ensure that all concerns of applicants and service recipients are handled appropriately and in a timely manner.

Areas that may be appealed or reconsidered include, but are not limited to:

1. Eligibility for DDSN services

2. Determination of Intermediate Care Facility for Individuals with Intellectual Disability (ICF/IID) Level of Care

3. Re-evaluation of Nursing Facility (NF) Level of Care for Head and Spinal Cord Injury (HASCI) Waiver participants.

4. Other decisions:

- Home and Community-Based Waiver waiting list placement
- Denial, suspension, reduction or termination of a Medicaid funded service, when the decision to deny, suspend, reduce or terminate was made by DDSN, a DSN Board or Contract Service Provider
- Denial of the Home and Community-Based Waiver (HCB) service provider of choice
- Calculation of room and board

DEFINITIONS:

Applicant:

a. One who has contacted DDSN (via the toll free telephone number) to seek a determination of eligibility for DDSN services or by proxy, contact was made by the applicant's legal guardian;

b. One who has contacted DDSN or a DDSN qualified Case Management provider to seek enrollment or one for whom enrollment is sought by a legal guardian in one of the Home and Community-Based Waivers operated by DDSN;

c. One who has contacted their provider or Case Manager to seek a determination of ICF/IID Level of Care or one for whom a determination is sought by a legal guardian.

Service Recipient:

a. One who has been determined by DDSN to meet the criteria for eligibility for DDSN services, or his/her legal guardian.

b. One who is enrolled in a Home and Community-Based Waiver operated by DDSN or by proxy, his/her legal guardian.

Representative:

a. One, who with the consent of an individual who is not adjudicated incompetent, assists the applicant or service recipient;

b. One, who with the consent of an individual's legal guardian, assists the applicant or service recipient.

Appeal:

A procedure by which a party dissatisfied with a decision, determination or ruling may refer the matter to a higher authority for review.

Reconsideration:

Adverse decision(s) regarding Medicaid funded services made by DDSN or through its network of service providers must first be reconsidered by DDSN before appealing to the South Carolina Department of Health and Human Services (DHHS), the Medicaid agency.

APPEAL PROCEDURES FOR APPLICANTS SEEKING ELIGIBILITY FOR DDSN SERVICES:

Step 1: Appeal in Writing:

When an appeal is desired by the applicant or his/her representative, a signed and dated written appeal of an eligibility denial must be made within 30 calendar days of the eligibility decision. The appeal must be made by the applicant/representative and must state the reason for believing that the denial of eligibility was in error. The "Appeal or Request for Reconsideration" form (Attachment 1) may be used, but is not required, to appeal the decision. This written appeal may be given to the Case Management/Early Intervention provider or mailed directly to the DDSN State Director as indicated on the referenced form. If an oral request for appeal is made by the applicant to the Case Management/Early Intervention provider and the applicant requires assistance, the Case Management/Early Intervention provider must assist the applicant in writing the appeal.

Step 2: Review of Decision:

Upon receipt of the appeal, all pertinent documents upon which the decision was based will be reviewed. If new or additional information is provided, which was not part of the original eligibility determination documents, the appeal will be considered a re-evaluation and forwarded to the Consumer Assessment Team for re-determination. Should new testing or assessment be indicated, such testing or assessment will be conducted by individuals not conducting the previous testing or assessment.

If no new or additional information is provided, or in the case of re-evaluation, a subsequent determination of ineligibility is challenged, the appeal will be forwarded to the Associate State Director for Policy, who will review the decision with input from the Consumer Assessment Team and appropriate Division Directors. The Associate State Director of Policy will review the case with the State Director, who has final authority over applicant eligibility in accordance with SC Code Ann. § 44-20-430 (Supp. 2014).

Step 3: Decision Rendered:

When new or additional information is provided, a subsequent eligibility decision will be rendered by the Consumer Assessment Team within 30 days of receipt of the appeal or receipt of new testing/assessment results, whichever is later, and communicated to the applicant via the Case Management/Early Intervention provider.

When no new or additional information is provided, a written decision will be rendered within 30 days of receipt of appeal and communicated to the applicant in writing.

RECONSIDERATION PROCEDURES FOR ICF/IID LEVEL OF CARE DECISIONS

An adverse decision regarding an initial determination or an annual re-determination of ICF/IID Level of Care made by or upheld by the Consumer Assessment Team may be reconsidered if relevant information not previously considered is available. Requests for reconsideration must be made in writing by the applicant/representative within 30 calendar days of the adverse decision. The "Appeal or Request for Reconsideration" form (Attachment 1) may be used, but is not required, to request reconsideration.

If after reconsideration, including consideration of new information, the determination remains unchanged, the applicant may appeal to DHHS-Division of Appeals and Hearings.

NOTE: For those applying for Medicaid through the Tax Equity and Fiscal Responsibility Act (TEFRA), appeals of adverse ICF/IID Level of Care decisions must be made directly to DHHS-Division of Appeals and Hearings. DDSN cannot reconsider these decisions.

RECONSIDERATION AND APPEAL PROCEDURES FOR NURSING FACILITY (NF) LEVEL OF CARE RE-EVALUATIONS

An adverse decision regarding an annual re-evaluation of a Nursing Facility Level of Care by a Case Manager will automatically be reviewed by staff of DDSN's Head and Spinal Cord Injury (HASCI) Division before expiration of the current Level of Care determination. The "Appeal or Request for Reconsideration" form (Attachment 1) may be used, but is not required, to request reconsideration. If the adverse decision is upheld by HASCI Division staff, an appeal may be made by the applicant to DHHS-Division of Appeals and Hearings.

RECONSIDERATION/APPEAL PROCEDURES FOR OTHER DECISIONS

A request for appeal or reconsideration of an adverse decision regarding services must be sent in writing to the DDSN State Director at P. O. Box 4706, Columbia, SC 29240. A formal request for a reconsideration/appeal must be made in writing within 30 calendar days of receipt of notification of the adverse decision. A copy of the written notification of the adverse decision must be submitted along with the basis of the complaint and the relief sought. The appeal or reconsideration request must be dated and signed by the service recipient/representative. If necessary, staff will assist with the filing of a written appeal or reconsideration. The "Appeal or

Request for Reconsideration" form (attachment 1) may be used, but is not required, to request reconsideration of an adverse decision.

Susan Kreh Beck, Ed.S., NCSP
Associated State Director-Policy
(Originator)

Beverly A.H. Buscemi, Ph.D.
State Director
(Approved)

To access the following attachments, please see the agency website page "Attachments to Directives" under this directive number at http://www.ddsn.sc.gov/about/directives-standards/Pages/AttachmentstoDirectives.aspx.

Attachment: Appeal or Request for Reconsideration Form

Related Policies: 535-08-DD: Concerns of People Receiving Services: Reporting and Resolution

700-02-DD: Compliance with Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973 and Establishment of a Complaint Process