



Rules of
Department of Mental Health
Division 45—Division of Mental Retardation
and Developmental Disabilities
Chapter 5—Standards

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**Title 9—DEPARTMENT OF
MENTAL HEALTH
Division 45—Division of Mental
Retardation and Developmental
Disabilities
Chapter 5—Standards**

**9 CSR 45-5.010 Certification of Medicaid
Agencies Serving Persons with Develop-
mental Disabilities**

PURPOSE: This rule defines terms, establishes principles and sets out the process by which Medicaid agencies providing residential habilitation, day habilitation, supported employment or individualized supported living services attain certification.

(1) The Division of Mental Retardation and Developmental Disabilities (division) shall establish procedures under which a Medicaid agency (agency) providing residential habilitation, day habilitation, supported employment or individualized supported living services to persons with developmental disabilities attains certification. In establishing those procedures, the division makes the following assumptions:

(A) A person with a developmental disability or the person's family can best determine the services the person wants and needs;

(B) The division and the agencies shall work cooperatively to provide quality services and supports that effectively and efficiently meet individual needs of persons with developmental disabilities within the contexts of the persons' preferred lifestyles;

(C) Through ongoing monitoring, persons with developmental disabilities and their families shall determine the quality of the persons' services and supports and the effectiveness of the services and supports in meeting the persons' needs;

(D) The certification process shall be flexible and person-centered and shall serve three (3) critical purposes—

1. To determine how well the division, its regional centers and the agencies fulfill their responsibilities to persons with developmental disabilities;

2. To determine systems changes and practices needed so that the agencies will be more responsive to the persons' needs; and

3. To enhance inclusion of persons with developmental disabilities as valued members of their communities;

(E) Rather than taking the traditional approach of penalizing agencies that fail to meet minimum standards, the division shall direct its resources and support towards assisting agencies that demonstrate innovation

and initiative in pursuing best practices and realizing outcomes contained in the principles set out in section (3).

(F) The principles in subsections (3)(A) and (B) and paragraphs (3)(C)1. and (3)(D)3. of this rule are intended to enhance the services of agencies. Certification requires agencies' commitment to continuous improvement toward realization of those principles;

(G) Agencies shall subscribe to and meet the principles in paragraphs (3)(C)2. and (3)(D)1. and 2. of this rule. The division shall enforce those principles; and

(H) A residential facility or day program that attains certification from the Division of Mental Retardation and Developmental Disabilities to deliver Medicaid Home- and Community-Based Waiver services is deemed licensed by the department under sections 630.705–630.760, RSMo.

(2) Terms defined in sections 630.005 and 633.005, RSMo are incorporated by reference for use in this rule. As used in this rule, unless the context clearly indicates otherwise, the following terms also mean:

(A) Consumer and family monitoring—A formalized review of an agency conducted every two (2) years by an organized consumer-parent group;

(B) Consumer and family monitoring team (monitoring team)—An organized group of at least two (2) parents or other consumers that reviews an agency every two (2) years to assess the quality and responsiveness of the agency's services;

(C) Core issues—Issues identified by a survey team or monitoring team and which threaten the health or safety of people with developmental disabilities or infringe upon the basic rights of those people;

(D) Enforcement plan—A compliance plan under which an agency satisfies core issues identified by a survey team or monitoring team;

(E) Enhancement plan—A plan under which an agency will further enhance its services by building upon strengths and addressing other issues identified by a survey team;

(F) Medicaid agency—An agency serving people with developmental disabilities under the Medicaid Home- and Community-Based or Nursing Home Reform Waiver program;

(G) Survey team—A group of at least two (2) persons, including the team leader, appointed by the division director or designee to conduct surveys of agencies;

(H) Survey team leader—A division employee who heads a survey team and coordinates its work;

(I) Survey team member—A service provider, regional center employee, parent of

a person with a developmental disability or other consumer who has completed training and credentialing by the division, qualifying him/her for membership on a survey team; and

(J) Tailored survey—A survey conducted by a survey team or monitoring team to assess the degree to which an agency has satisfied core issues previously identified by the team.

(3) This section prescribes four (4) sets of principles for agencies providing residential habilitation, day habilitation, supported employment or individualized supported living services to persons with developmental disabilities under the Medicaid Home- and Community-Based or Nursing Home Reform Waiver program.

(A) Community Membership.

1. Promoting acceptance through community involvement—Outcome: Individuals are active participants in the community where they live.

A. Individuals' days are as diverse and enriching as others in the community.

B. Individuals are supported in efforts to actively participate in community life.

C. Individuals receive needed support when using community resources.

D. Individuals who receive specialized supports receive them in a place or manner typical for all other community members.

E. Individuals live, work, and participate in recreational activities in settings that are physically integrated into the community.

F. Individuals spend the majority of their time in integrated settings.

G. Individuals are familiar with their communities.

H. Individuals use generic resources.

I. Individuals participate in age-appropriate recreational activities.

J. Individuals have the option to participate in the ethnic life of the community.

K. Individuals have the option to participate in cultural arts activities in the community.

L. Individuals receive supports and adaptations with consideration for acceptance in the community.

M. Individuals use methods of transportation that are typical for others in the community.

N. Individuals' dress and grooming are consistent with community norms.

O. Individuals know or are learning skills which are critical to their acceptance in the community.

P. Individuals receive training in a manner which is likely to be accepted by the community.



Q. Individuals have the option to participate in the religious life of their choice in the community.

R. Individuals have the option to participate in political activities of their choice in the community.

2. Supporting and promoting relationships—Outcome: Individuals have positive relationships with people who are not paid providers.

A. Individuals are supported in developing friendships.

B. Individuals are supported in sustaining friendships.

C. Individuals sustain or reestablish relationships with family members.

D. Individuals who choose responsible, consenting, intimate relationships are supported.

E. Individuals' relationships with others are encouraged and supported.

F. Individuals' social support networks are expanded and enhanced.

G. Individuals have repeated opportunities for social contact with the same people or groups of people.

H. Individuals are involved in activities at times which are conducive to building relationships.

I. Individuals' competencies and interests are emphasized in expanding the scope of relationships.

J. Individuals' environments are conducive to developing relationships.

K. Individuals invite guests to their homes and on social occasions.

L. Individuals have in their possession personal information concerning significant others.

M. Individuals interact with others consistent with the intensity of the relationship.

3. Supporting and promoting contribution—Outcome: Individuals experience the rewards and responsibilities of contributing to society.

A. Individuals have the option to contribute to and receive from others.

B. Individuals have the option to join and assume roles in community organizations.

C. Individuals have the option to join and assume roles in religious organizations.

D. Individuals have the option to volunteer.

E. Individuals have the option to help their neighbors.

4. Facilitating and enhancing communications—Outcome: Individuals' communications are recognized, responded to, and supported.

A. Individuals have opportunities for communication in a variety of settings and with a variety of people.

B. Individuals receive supports or services, or both, to enhance functional communication.

C. Individuals who need them have alternative or augmentative communication systems that are functional.

D. Individuals who use alternative systems of communication have those systems or functional alternatives available for use at all times in all environments.

E. Individuals' families and friends have the option to receive training in the means of communication used by the individual.

F. Individuals' language or communication systems are understood and used by people when providing supports or services, or both.

G. Individuals' physical environments are arranged to promote conversation.

H. Individuals' environments contain accessories and personal possessions which promote conversation.

I. Individuals' lives contain various activities and experiences about which to communicate.

J. Individuals' suggestions, opinions, and other communication are recognized and receive a response.

5. Facilitating community involvement through positive interaction—Outcome: Individuals interact in a manner which promotes inclusion in community life.

A. Individuals are in supportive environments where most individuals engage in positive, acceptable interactions.

B. Individuals are assured continued access to the community even though they may be displaying unacceptable behaviors.

C. Individuals' interactions are understood in terms of communicative intent and function.

D. Individuals' interactions are understood in terms of the variables contributing to the behavior as well as the physical characteristics of the behavior.

E. Individuals with unacceptable interactions are directly observed in the environments where the behaviors occur to determine the purpose of the behavior.

F. Individuals with unacceptable interactions are directly observed by persons knowledgeable and experienced in providing behavioral supports.

G. Individuals' behavioral supports reflect an emphasis on analyzing the possible reasons for unacceptable interactions prior to planning and implementation.

H. Individuals' unacceptable, non-threatening behaviors are reduced and more functional alternatives acquired.

I. Alternatives other than or in addition to behavioral supports are considered when severe and persistent mental illness is the presumed causal factor.

J. Individuals are supported through provision of a variety of programming strategies for facilitating or teaching appropriate adaptive behaviors.

K. Individuals' plans present a clear, integrated rationale explaining the importance to the individual for any proposed intervention.

L. Individuals are prevented, as much as possible, from engaging in severe, unexpected and threatening behaviors that endanger themselves, others, or community property.

M. Individuals are protected from endangerment through the supportive, respectful use of behavioral supports.

N. Individuals' rights are actively protected when behavioral supports are implemented.

(B) Self-determination.

1. Promoting self-esteem through positive self-expression—Outcome: Individuals have the opportunity to enhance self-esteem through self-expression.

A. Interactions with each individual demonstrate interest, concern, and consistency.

B. Individuals routinely receive unconditional positive feedback.

C. Expectations of each individual are positive.

D. Individuals have social and interpersonal problem solving skills.

E. Individuals express their own personal style.

F. Individuals are aware of and use personal competencies.

G. Individuals express personal opinions and preferences.

H. Individuals have options to express their cultural heritage.

I. Individuals have information about their families and friends.

J. Individuals express their personal histories.

K. Individuals understand what belongs to them and what belongs to others.

L. Individuals are aware of their own bodies.

M. Individuals differentiate between themselves and others.

2. Maximizing individual choice and decision making—Outcome: The responsible choices of individuals are respected and supported in all phases of life.



A. Individuals establish personal goals.

B. Individuals make informed choices and experience natural consequences.

C. Individuals are supported in carrying out choices.

D. Individuals make commitments for which they accept personal responsibility.

E. Individuals participate in the decoration of their personal area.

F. Individuals participate in the decoration of common living areas.

G. Individuals make choices regarding health care providers.

H. Individuals have options to choose from a variety of alternatives in all areas of their lives.

I. Individuals have options to retire.

J. Individuals receive and spend money in a typical fashion.

K. Individuals plan their own time.

L. Individuals choose their personal possessions.

3. Facilitating empowerment—Outcome: Individuals are in control of their own lives.

A. Individuals have options to acquire and use self-advocacy and assertiveness skills.

B. Individuals regularly utilize formal and informal means to influence decisions and affect changes.

C. Individuals are supported in group advocacy efforts.

D. Individuals have options to use external advocates of their own choosing.

E. Individuals express satisfaction or dissatisfaction without fear of recrimination.

F. Individuals participate on agency governing boards or serve as *ex officio* members.

G. Individuals participate in the strategic planning of agency supports and services.

H. Individuals participate in hiring personnel.

I. As individuals gain more power over their own lives, the degree of external control and protection is reduced.

4. Person-centered planning—Outcome: Person-centered planning facilitates the empowerment of individuals to attain personal goals.

A. A profile of personal information about the individual's capacities, dreams, interests, and needs is developed.

B. A profile of social information about the individual in the community, his/her family, social support network, and associational life is developed.

C. Information used in the development of personal profiles is obtained in natural settings.

D. Information used in the development of personal and social profiles is obtained from the individual and from others who know the individual well.

E. Information is presented in plain language.

F. Professionals in specialized disciplines supplement knowledge about the individual.

G. Individuals have options to chair or co-chair their own person-centered planning sessions.

H. Individuals participate in planning the time, place, approximate length, and agenda for their person-centered planning sessions.

I. Person-centered planning sessions are held as frequently as necessary but at least annually.

J. Professionals in specialized disciplines and significant others invited to the person-centered planning sessions have spent time with the individual prior to the meeting.

K. Individuals participate in selecting and inviting the people who will participate in their own person-centered planning sessions.

L. The type of person-centered planning process selected is based on each individual and his/her life situation.

M. Facilitators are trained in the use of various types of person-centered planning processes.

N. Each individual's personal goals are the focal point of the person-centered planning session and are actively addressed.

O. Outcome statements present a rationale for the relevance to the person, a statement of what must be accomplished, and criteria for attainment.

P. People at the person-centered planning sessions consider how to use or enhance natural supports before recommending specialized services.

Q. Natural supports are enhanced to decrease dependence on specialized services and to increase interdependence in the community.

R. People at the person-centered planning sessions determine whether support or training strategies, or both, are desirable.

S. The amount and duration of supports and services the person needs are specified.

T. People in attendance at the person-centered planning sessions decide on who will assume responsibility for specific implementation strategies and timelines.

U. Supports, adaptations, services or a combination are located or created to implement the person-centered plan.

V. Individuals choose support or service providers.

W. Strategies for attaining personal goals are developed based on the individual's personal and social profiles and relevant professional disciplinary assessment.

X. Strategies used for implementation of the person-centered plan are functional, effective, and efficient.

Y. Training occurs in the community in which the individual lives, works, engages in recreational activities, and has relationships.

Z. Individuals have the option to coordinate their individual supports and services.

AA. Persons responsible for coordinating the person-centered plan review it with the individual as frequently as necessary but at least monthly.

BB. Plan review includes specific objective data as well as feedback from the individual.

CC. Persons responsible for coordinating the person-centered plan make revisions based on the findings from the review process.

DD. Supports and services are reduced or modified in amount and intensity whenever indicated.

(C) Rights.

1. Assuring human rights, dignity and respect—Outcome: Individuals are treated with respect in an environment that promotes dignity.

A. The dignity and comfort of individuals are considered in all aspects of their lives.

B. Specialized supports are developed only when individuals do not have an identifiable natural support network.

C. Individuals recognize the rights of others.

D. Individuals' lives are free of arbitrary rules or unnecessary behavioral consequences.

E. Individuals are not unnecessarily separated from staff by imposed practices.

F. Individuals are not discussed while present unless included in the conversation.

G. Individuals' needs for privacy are accommodated.

H. Individuals are addressed using people-first language.

I. Individuals are addressed in an age-appropriate manner.

J. Individuals are addressed in a conversational tone.

K. Individuals engage in age-appropriate interactions.

L. Individuals receive supports and services in age-appropriate environments.



M. Individuals have access to and use of personal possessions.

N. Individuals secure all public and private benefits to which they are entitled.

2. Assuring legal rights—Outcome: Individuals exercise or are assisted in exercising all rights under the Constitution of the United States and those stated in statute.

A. Individuals have information on the rights and responsibilities of citizenship.

B. Individuals are involved in any process to limit their rights and are assisted through external advocacy efforts.

C. Individuals are entitled to due process when limitations are imposed.

D. Individuals are free to communicate privately.

E. Individuals have freedom of movement.

F. Staff are trained in preventing, detecting and reporting abuse and neglect.

G. Abuse and neglect are prohibited by policy.

H. Research must comply with state and federal regulations.

I. Guardians and advocates, chosen by the individual, participate in planning and decision making.

J. Individuals are informed of, or are assisted in the process of obtaining a guardian or conservator or are referred to advocacy services, or both.

K. Staff maintain all information about individuals in confidence.

L. Individuals have access to their records and staff are available to answer their questions.

M. Individuals do not perform unpaid work for which others receive pay.

N. Individuals' rights to a free, appropriate public education are supported.

O. Individuals have information on the rights and responsibilities of living in the community.

(D) Meeting Basic Needs.

1. Assuring and promoting good health—Outcome: Individuals maintain good health.

A. Individuals have a primary health care provider to meet health care needs.

B. Individuals obtain medical care at intervals recommended for other persons of similar health status.

C. Individuals obtain dental examinations at intervals recommended for other persons of similar health status and receive follow-up dental treatment as needed.

D. Individuals requiring specialized medical services have access to specialists.

E. Individuals are offered support in preparation for medical and dental care.

F. Individuals eat well balanced diets appropriate to nutritional needs.

G. Individuals who have special dietary needs have those needs reviewed by a dietary consultant.

H. Individuals have options to participate in fitness programs.

I. Individuals' health is protected through measures typically taken to prevent communicable diseases for persons with similar health status.

J. Individuals participate in making decisions about their health care to the maximum extent of their capacities, and their decisions about their health care are recognized and supported.

K. Individuals make informed choices about taking prescribed medications.

L. Individuals take medications as prescribed.

M. Individuals are supported in safely managing their medications.

N. Individuals' medications are regularly evaluated to determine their continued effectiveness.

O. Individuals who take medications are supported by people who have received information about the individuals' medical conditions, know how the medications should be taken and are aware of possible side effects.

2. Assuring individual safety—Outcome: Individuals' environments are safe while assuring choices and freedoms.

A. Individuals receive the degree of supervision consistent with personal ability and the nature of the environment.

B. Individuals' homes and other environments are clean, safe and well maintained.

C. Individuals' homes and other environments have modifications or adaptations to ensure safety.

D. Individuals' homes and other environments have passed externally conducted health, safety, and mechanical inspections.

E. Individuals' safety is assured through preventive maintenance of vehicles, equipment and buildings.

F. Individuals are transported safely.

G. Individuals have the option to participate in home repair and maintenance training.

H. The temperature of individuals' homes is within an accepted comfort range of sixty-eight (68°) to seventy-eight (78°) degrees Fahrenheit.

I. Individuals are supported in responding to emergencies in a safe manner.

J. Individuals participate in emergency drills occurring during daytime, evening

and nighttime hours at least four (4) times annually.

K. Individuals are supported or served by staff who are knowledgeable about emergency procedures.

L. Individuals have access to adequate evacuation exits.

M. Individuals have properly marked and easily accessible fire fighting equipment in their homes.

N. Individuals' homes have operating smoke detectors.

O. Individuals have adaptive emergency alarm systems based upon need.

P. Individuals have options to take first aid, have access to basic first-aid supplies, or are provided first aid by knowledgeable staff.

Q. Individuals are provided cardiopulmonary resuscitation by knowledgeable staff.

R. Individuals incurring injuries or experiencing unusual incidents have the injuries or incidents documented in their files.

S. Individuals are supported or served by staff who have pertinent information to facilitate ordinary or emergency notification of family, guardians or other interested parties.

T. Individuals' safety is assured by secure storage of materials and equipment necessary for household maintenance.

U. Individuals and staff use safe and sanitary practices in all phases of food preparation and cleanup.

V. Individuals who need assistance to eat in an upright position are provided needed supports and adaptations.

W. Individuals use mechanical supports only as prescribed.

X. Individuals use adaptive, corrective, mobility, orthotic and prosthetic equipment that is in good repair.

3. Promoting well-being, comfort and security—Outcome: The physical and emotional well-being of individuals are met at home and promoted in other environments.

A. Individuals' personal preferences are supported to assure physical comfort.

B. Individuals' environments are secure and stable.

C. Individuals express that their home is their own.

D. Individuals' homes are adequate in size and design to meet the needs of those who live there.

E. Individuals are actively involved in the process when they relocate.

F. Individuals have opportunities to learn how to protect themselves from others.



(4) Every two (2) years, all agencies shall seek certification under this section except that agencies accredited by nationally recognized accrediting bodies approved by the division shall not be required to seek certification. For example, agencies accredited by the Accreditation Council on Services for People with Developmental Disabilities or agencies receiving accreditation of appropriate services by the Commission on Accreditation of Rehabilitation Facilities shall not be required to seek certification. The division director shall issue two (2)-year certificates to agencies successfully completing the process and requirements of this section and contingent, upon successful completion, the following year of consumer and family monitoring as set out in section (6).

(A) Presurvey Activities.

1. The survey team leader shall provide written information to the agency about the survey process and its purpose and shall provide a list of credentialed, potential survey team members. The survey team leader shall also request information from the agency for his/her use in selecting the sample of persons with developmental disabilities to be surveyed. That information shall include, but not be limited to, the number of persons in each program service and at each service location; number of persons with various support needs, for example, communication, behavioral or medical; and a copy of the agency's mission statement and organizational chart.

2. The agency shall provide the survey team leader with the requested information and with preferred survey team members in priority order.

3. The regional center director shall provide information to the survey team leader about case management for the agency.

4. Based on information provided by the agency, the survey team leader shall determine the agency's characteristics in conjunction with the agency and regional center directors. The survey team leader shall also determine the sample size and select the survey team. No survey team member may survey an agency in his/her community or any other agency if s/he or the team leader believes there could be a conflict of interest.

5. The agency and regional center directors shall designate a liaison person to provide information otherwise assist the survey team.

6. The survey team leader shall inform the team and the agency director of the survey schedule and shall provide necessary written information to the team.

(B) Survey Activities.

1. The survey team leader shall convene the team to make assignments and introduce agency and regional center liaison persons.

2. The survey team leader shall convene a meeting at the agency to introduce team members and liaison persons to the agency director and other staff and to present information about the survey process.

3. The survey team shall gather necessary information (conduct the survey). The agency director shall make people receiving its services, its staff and relevant records and policies available. The survey team shall cite examples of agency strengths and characteristics on which the agency may build during the enhancement phase of the certification process. Survey activities include but are not limited to—

A. A community tour;

B. Observation of persons receiving services in their homes and in the community;

C. Discussions with persons receiving services, their families and agency staff;

D. Attendance at individual habilitation plan meetings;

E. Record review and

F. Informal meetings to share observations, plan, and identify emerging themes.

4. The survey team shall reach conciliation on each principle in section (3) through evaluation of trends, not on the agency's failure to meet the principle.

5. After the survey team has completed the survey, it shall indicate whether—

A. No core issues were identified;

B. Core issues were identified, but the issues are not pervasive; or

C. Pervasive core issues were identified.

(C) Post-Survey Activities.

1. If the survey team does not identify core issues—

A. The survey team leader shall conduct an exit meeting at the agency with the agency and regional center directors, providing them a summary of the team's findings and its recommendation for certification of the agency;

B. The survey team leader shall prepare a survey report, including the team's recommendation for certification of the agency;

C. The survey team leader shall facilitate a meeting of the agency and regional center directors, after which those directors shall develop an enhancement plan to focus on themes (issues) identified during the survey. The plan shall include but not be limited to—

(I) How the issues will be addressed;

(II) Roles of agency and regional center staff in addressing the issues;

(III) Short- and long-range timelines;

(IV) Specific methods of agency-regional center communication about implementation of the plan; and

(V) Criteria for measuring success;

D. The survey team leader and agency director shall submit the survey report and enhancement plan to the division director;

E. The division director shall issue a two (2)-year certificate that is contingent upon successful completion the following year of consumer and family monitoring as set out in section (6);

F. The agency and regional center directors shall work together to implement the enhancement plan; and

G. The regional center director shall identify common issues or problems within enhancement plans in his/her region, especially within plans of agencies in particular communities, and shall take steps to resolve the issues or problems.

2. If the survey team identifies core issues, but the issues are not pervasive—

A. The survey team leader and regional center director shall conduct an exit meeting at the agency with the agency director, providing him/her a summary of the team's findings and its recommendation on certification of the agency;

B. The survey team leader shall prepare a survey report, including the team's recommendation on certification of the agency;

C. If certification is recommended, the survey team leader and regional center director shall facilitate a meeting with the agency director, after which the agency and regional center directors shall develop a combination enhancement (for building upon agency strengths)-enforcement (for addressing core issues) plan. The plan shall include but not be limited to requirements set out in items (4)(C)1.C.(I) through (V);

D. The survey team leader and agency director shall submit the survey report and enhancement-enforcement plan to the division director;

E. The division director shall issue a two (2)-year certificate that is contingent upon satisfying core issues identified in the enforcement plan component and successful completion the following year of consumer and family monitoring as set out in section (6);

F. The agency and regional center directors shall work together to implement the enhancement-enforcement plan;

G. The regional center director shall identify common issues or problems within



enhancement and enforcement plans in his/her region, especially within plans of agencies in particular communities, and shall take steps to resolve the issues or problems; and

H. When the agency director believes his/her agency has satisfied core issues identified in the enforcement plan component, s/he, the regional center director, and a survey team member appointed by the team leader shall conduct a tailored survey to determine if the core issues have been satisfied.

(I) If the core issues have been satisfied, the agency and regional center directors shall work together to continue implementation of the enhancement plan component.

(II) If the agency has not satisfied the core issues but has made significant progress, the regional center director may extend the timelines in the enforcement plan component so that the agency can satisfy the remaining core issues.

(III) If the agency has failed to satisfy the core issues or even to make significant progress toward satisfying them, the division director shall decertify the agency.

3. If the survey team identifies pervasive core issues—

A. The survey team leader and regional center director shall conduct an exit meeting at the agency with the agency director, providing him/her a summary of the team's findings and its recommendation on certification of the agency;

B. The survey team leader shall prepare a survey report, including the team's recommendation on certification of the agency;

C. The survey team leader and regional center director shall facilitate a meeting with the agency director, after which the agency and regional center directors shall develop an enforcement plan. The plan shall include, but not be limited to, requirements set out in items (4)(C)1.C.(I) through (V);

D. The survey team leader and agency director shall submit the survey report and enforcement plan to the division director;

E. The division director shall issue a two (2)-year certificate that is contingent upon satisfying core issues identified in the enforcement plan and successful completion the following year of consumer and family monitoring as set out in section (6);

F. The agency and regional center directors shall work together to implement the enforcement plan;

G. The regional center director shall identify common issues or problems within enforcement plans in his/her region, especial-

ly within plans of agencies in particular communities, and shall take steps to resolve the issues or problems; and

H. When the agency director believes his/her agency has satisfied core issues identified in the enforcement plan, s/he, the regional center director and a survey team member appointed by the team leader shall conduct a tailored survey to determine if the core issues have been satisfied.

(I) If the core issues have been satisfied, the agency and regional center directors shall work together to develop and implement an enhancement plan.

(II) If the agency has not satisfied the core issues but has made significant progress, the regional center director may extend the timelines in the enforcement plan so that the agency can satisfy the remaining core issues.

(III) If the agency has failed to satisfy the core issues or even to make significant progress toward satisfying them, the division director shall decertify the agency.

(5) An agency may appeal its decertification to the department's hearings administrator.

(A) If the agency appeals and the hearings administrator reverses the decertification decision, the agency and regional center directors shall develop an enforcement plan or revise an existing plan, and the agency shall continue through the process set out previously in this rule.

(B) If the agency appeals and the hearings administrator sustains the decertification decision, the division director shall remove the agency from the Medicaid Home- and Community-Based or Nursing Home Reform Waiver Program.

(C) If the agency does not appeal, the division director shall remove the agency from the Medicaid Home- and Community-Based or Nursing Home Reform Waiver Program.

(6) Every two (2) years during years when survey teams do not conduct surveys of agencies, consumer and family monitoring teams shall monitor the agencies.

(A) If a monitoring team identifies core issues—

1. The monitoring team and the regional center director shall conduct an exit meeting with the agency director at the agency, providing the agency director a summary of the monitoring team's findings;

2. After the exit meeting, the agency director shall—

A. Develop an enforcement plan with the regional center director and continue through the process set out previously in this rule; or

B. Request that a tailored survey be conducted by the regional center director, the monitoring team and the agency director; and

3. If a tailored survey is conducted and—

A. The agency has not satisfied the core issues, the agency and regional center directors shall develop an enforcement plan, and the agency shall continue through the process set out previously in this rule; or

B. The agency has satisfied the core issues, the agency shall continue in its prior status.

AUTHORITY: section 630.655, RSMo 1994. This rule originally filed as 9 CSR 30-5.050. Original rule filed July 25, 1994, effective March 30, 1995. Amended: Emergency amendment filed July 20, 1995, effective July 30, 1995, expired Nov. 26, 1995. Amended: Filed July 20, 1995, effective Nov. 30, 1995. Amended: Filed May 25, 1995, effective Dec. 30, 1995.*

**Original authority 1980.*

9 CSR 45-5.020 Individualized Supported Living Services—Quality Outcome Standards

PURPOSE: This rule describes requirements for certification as a provider of individualized supported living services reimbursed under Missouri's Medicaid waiver for persons with mental retardation and other developmental disabilities. Specifically, this rule describes outcomes expected for individuals who receive individualized supported living services. Achievement of these outcomes will ensure that individuals assisted under this program receive services and supports adequate to assure their health and safety while enjoying an improved quality of life. This rule requires a certified provider of individualized supported living services to provide or arrange the services, supports and opportunities necessary for individuals to achieve these outcomes.

(1) The individualized habilitation plan developed by the certified provider and the regional center shall address assistance and support required by individuals to achieve outcomes specified in the seven (7) areas identified under section (2) of this rule.

(2) The certified provider shall promote conditions that provide a valued lifestyle for the individuals and shall document and demonstrate efforts to assist and support the individuals in the following areas:

(A) Financial Resource Management.



1. The individual has sufficient available resources to cover his/her basic living needs, including, but not limited to, shelter, food, transportation and clothing.

2. There is effective management of the individual's financial resources to ensure that basic needs are met.

3. The individual is able to participate as fully as possible in decision-making about use of his/her financial resources through development of money and budgeting concepts, and values that encourage financial responsibility;

(B) Housing.

1. The individual has housing that meets local requirements for residential homes, is secure and has adequate heating, water and electricity.

2. The individual has basic furnishings necessary for daily living, including, but not limited to, a bed, chairs, table, kitchen facilities and lighting.

3. The individual has opportunity to live in a neighborhood with ready access to needed resources.

4. The interior and exterior of the home are safe and clean.

5. The individual is given needed support in choosing his/her own residence and persons with whom s/he will reside, if any.

6. The individual is able to exercise control over his/her home environment, including choice of location, personalized furnishings and decor, and control of temperature and lighting;

(C) Health.

1. The individual's health is maintained through adequate nutrition, exercise, safe behavior, medical and dental monitoring, and appropriate medications when needed.

2. The individual receives prompt and up-to-date treatment for physical problems.

3. The individual's lifestyle encourages wellness;

(D) Safety.

1. Potential environmental dangers are minimized.

2. The individual has access to prompt and appropriate emergency services, such as police, fire department, ambulance and crisis line. In addition, the certified provider must provide an around-the-clock crisis response system;

(E) Appearance and Hygiene. The individual—

1. Minimizes health-related problems through adequate personal hygiene and clothing choices appropriate for weather conditions.

2. Maintains acceptable hygiene and appearance so as not to restrict where s/he can live, work and socialize;

(F) Relating With Others. The individual has—

1. The means to communicate on a daily basis with primary people in his/her life.

2. Support people with whom s/he is able to maintain contact.

3. Opportunity for relationships with friends and peers that provide companionship, intimacy and support.

4. Opportunity for relationships with people who are nondisabled; and

(G) Activities. The individual has—

1. Means to move about his/her home and community as necessary to satisfy his/her basic needs.

2. Access to a wide range of community resources for work, leisure and shopping.

(3) The certified provider shall not knowingly employ nor retain in employment any staff in positions providing direct services to individuals when that person has been convicted of, or has charges pending for, a disqualifying felony offense.

(4) In accordance with general state or local government policy, or both, and sound business practice, the certified provider shall maintain liability insurance on staff who provide direct services to individuals.

(5) Major unusual incidents shall be reported to the regional center.

*AUTHORITY: section 630.050, RSMo 1994. * This rule was originally filed as 9 CSR 30-5.020. Emergency rule filed Aug. 4, 1992, effective Sept. 1, 1992, expired Dec. 29, 1992. Original rule filed Aug. 4, 1992, effective Feb. 26, 1993. Amended: Filed May 25, 1995, effective Dec. 30, 1995.*

**Original authority 1980, amended 1993.*

9 CSR 45-5.030 Individualized Supported Living Services—Provider Certification

PURPOSE: This rule describes procedures to obtain certification from the department as a provider of individualized supported living services reimbursed under the Missouri Medicaid Home and Community-Based Waiver for persons with mental retardation or other developmental disabilities.

(1) To be enrolled as a provider of individualized supported living services, an applicant shall possess a master agreement and a purchase of service contract with the department and one (1) of the following:

(A) Accreditation by Accreditation Council on Services for People With Disabilities

(ACD) or Commission on Accreditation of Rehabilitation Facilities (CARF);

(B) Residential licensure as a family living arrangement; or

(C) Certification by the department that the applicant will meet the standards in 9 CSR 45-5.020.

(2) Applicants for certification shall apply in accordance with this rule.

(3) The certification unit may grant a limited certificate to a single person who will provide services to no more than three (3) individuals with mental retardation or other developmental disabilities, subject only to the provisions of sections (3)—(5) and (9) of this rule after the following conditions have been met:

(A) The applicant shall be a qualified mental retardation professional (QMRP);

(B) The regional center shall have completed a criminal background check of the individual and verified that s/he has not been convicted of, nor has charges pending for, any disqualifying felony offense; and

(C) The regional center shall provide assurance to the certification unit that the individual provider is capable of carrying out the provisions of 9 CSR 45-5.020.

(4) The applicant shall submit an application to the certification unit on forms provided by the department. The stamped date of receipt shall be the date of application. The certification unit shall provide a copy to the regional center director within five (5) days after the date of application, and the regional center director or his/her designee shall review the application and provide comment and recommendation back to the certification unit within thirty (30) days after the date of application.

(5) A provider that meets requirements of this rule shall initially receive a probationary certificate from the department. This includes a provider that is granted a limited certificate under section (3) of this rule. The probationary certificate or the probationary limited certificate shall be in effect until a provider has one (1) year of established performance in providing supported living services. After one (1) year and each two (2) years after that, the department shall conduct an on-site review of the provider to ensure that the provider is carrying out the provisions of 9 CSR 45-5.020.

(6) Certification applications must be signed by the designated governing body authority.

(7) Qualifications for Certification.



(A) The provider shall have an administrator with a bachelor's degree from an accredited institution and at least one (1) year of full-time paid working experience in the provision of services to individuals with mental retardation and other developmental disabilities in a supervisory or administrative capacity.

(B) If the administrator is not a QMRP, the provider shall employ a QMRP, either full- or part-time, to consult with staff about strategies for each recipient to achieve the outcomes specified in the seven (7) areas identified under 9 CSR 45- 5.020(2).

(C) The provider shall provide a functional table of organization, a job description for each position in the organization, and policies and procedures that address the provider's management practices in the following areas:

1. Services and supports.
 - A. Mission statement.
 - B. Procedure for notifying individuals of their rights.
 - C. Grievance procedure for individuals served.
 - D. Unusual incident reporting and follow-up.
 - E. Procedures for helping individuals secure safe and appropriate housing.
 - F. Procedures for finding and developing supports.
 - G. Crisis intervention and emergency response procedures.
 - H. Procedures for protecting confidentiality;
2. Administration.
 - A. Recordkeeping procedures to document the delivery of services and the quality of services delivered.
 - B. Supervision of staff.
 - C. Screening and background checks on applicants for employment in positions involving direct service delivery.
 - D. Liability insurance for staff delivering direct services.
 - E. Staff training; and
3. Board functions, if applicable, including bylaws, a list of the board members' names and addresses, and a statement of each member's financial interest in the provider.

(8) Within thirty (30) days after receiving a properly completed application for provider certification or if the department chooses to revoke a provider's certificate, the department may conduct an interview with the applicant provider to review any cited deficiencies in the material submitted for certification. Within thirty (30) days after the review, the department shall notify the provider of its decision. The provider may appeal the department's decision to the direc-

tor. The director shall review the appeal within thirty (30) days.

(9) If the department finds the certified provider out of compliance with the standards in 9 CSR 45-5.020 to an extent that would result in substantial probability of or actual jeopardy to client safety or welfare, the department shall revoke the certificate by taking the following actions:

(A) The department shall notify the certified provider in writing of the evidence and of the right to appeal the decision to the director of the department within thirty (30) days of receiving the notice; and

(B) The department may suspend a certificate pending final action to revoke the certificate if, in the judgment of the director, the character of the charges warrants action.

*AUTHORITY: section 630.050, RSMo 1994. * This rule was originally filed as 9 CSR 30-5.030. Emergency rule filed Aug. 4, 1992, effective Sept. 1, 1992, expired Dec. 29, 1992. Original rule filed Aug. 4, 1992, effective Feb. 26, 1993. Amended: Filed May 25, 1995, effective Dec. 30, 1995.*

**Original authority 1980, amended 1993.*



STATE OF MISSOURI
DEPARTMENT OF MENTAL HEALTH

RETURN
COMPLETED
APPLICATION
TO →

PROGRAM STANDARDS AND CERTIFICATION UNIT,
DEPARTMENT OF MENTAL HEALTH, DEPT. AFFAIRS
1706 EAST ELM STREET, P.O. BOX 687
JEFFERSON CITY, MISSOURI 65102

APPLICATION FOR SUPPORTED LIVING LIMITED CERTIFICATE

by a single person provider of Individualized Supported Living Services under the Medicaid waiver for person(s) with mental retardation and other developmental disabilities.

Applicant _____ Social Security # _____ or, Tax ID # _____

Street _____ Telephone _____

City/State/Zip _____ County _____

I understand that the Supported Living Limited Certificate for which I am applying will allow me to serve no more than three (3) individuals with mental retardation or other developmental disabilities.

I am a Qualified Mental Retardation Professional (QMRP).

I will provide or arrange the services, supports and opportunities necessary for individuals to achieve the Individualized Supported Living Services Quality Outcome Standards.

Signature of Applicant _____ Date _____

NOTE: Within five (5) days after receipt of this application, the Program Standards and Certification Unit will forward the application to the Division of Mental Retardation and Developmental Disabilities (DMRDD) regional center in your area for review. Within thirty (30) days, the regional center shall return the application to the Office of Departmental Affairs with comments and recommendation. The provider will be notified of the decision.

FOR COMPLETION BY REGIONAL CENTER ONLY:

The _____ Regional Center of DMRDD has:

- a) completed a criminal background check on the above named applicant and has found no criminal past which would disqualify them for this certificate;
- b) determined that the above named applicant is a QMRP; and,
- c) determined that the above named applicant is capable of providing or arranging the services, supports, and opportunities necessary for individuals to achieve the Individualized Supported Living Services Quality Outcome Standards.

Regional Center Director _____ Date _____

FOR COMPLETION BY PROGRAM STANDARDS AND CERTIFICATION UNIT ONLY:

Date Received from Applicant _____ Date Sent to Regional Center _____ Date Returned from Regional Center _____

Certification Granted? Yes No Period of Certification: from _____ to _____

Signature of Program Standards and Certification Unit Staff Member/ _____ Date _____



STATE OF MISSOURI
DEPARTMENT OF MENTAL HEALTH

RETURN COMPLETED APPLICATION TO →	PROGRAM STANDARDS AND CERTIFICATION UNIT, DEPARTMENT OF MENTAL HEALTH, DEPT. AFFAIRS 1706 EAST ELM STREET, P.O. BOX 687 JEFFERSON CITY, MISSOURI 65102
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APPLICATION FOR INDIVIDUALIZED SUPPORTED LIVING CERTIFICATE

by an agency provider of Individualized Supported Living Services to person(s) with mental retardation and other developmental disabilities.

AGENCY IDENTIFICATION:

Name of Agency

Contact Person Regarding Certification

Title

Administrative Site Address

City State Zip Code

County

Administrative Mailing Address

City State Zip Code

() _____ () _____
Telephone Numbers

() _____
Fax Number

Tax ID #: _____ or, Social Security #: _____

<u>TO BE COMPLETED BY PROGRAM STANDARDS AND CERTIFICATION UNIT (PSCU) ONLY:</u>	

Date Received from Applicant	

Date Sent to Regional Center	

Date Returned from Regional Center	

Date of Review of Deficiencies, if any	

Certification Granted? <input type="checkbox"/> yes <input type="checkbox"/> no	
Period of Certification:	
from _____ to _____	
Certification #: _____	
Signature of PSCU staff/	Date

FOR COMPLETION BY REGIONAL CENTER ONLY:

The _____ Regional Center of DMRDD has determined that the applicant meets the requirements for certification (9 CSR 30-5.010 - 30-5.040) and is capable of providing or arranging the services, supports, and opportunities necessary for individuals to achieve the Individualized Supported Living Services Quality Outcome Standards.

Regional Center Director Date



INSTRUCTIONS TO THE APPLICANT: Complete the following items. Attach additional pages as needed.

ADMINISTRATOR:

Name Title

Degree: _____ Number of years of full-time paid working experience in a supervisory or administrative capacity providing services to individuals who are developmentally disabled: _____

QUALIFIED MENTAL RETARDATION PROFESSIONAL (QMRP):

Name of the QMRP employed by the agency: _____

Title: _____ Employed full or part time? _____

FUNCTIONAL TABLE OF ORGANIZATION:

Attach a functional table of organization of the agency.

JOB CLASSIFICATIONS:

List each job classification or title in the agency's organization and the number of staff in each. Include a brief description of each classification.

Position/Job Title:	Number of Staff:	Description:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



SERVICES AND SUPPORTS:

What is the agency's Mission Statement?

In general, how do you intend to find and develop services and supports which will enable individuals to achieve the quality outcomes specified in 9 CSR 30-5.020 (also described in *Interim Guidelines for Certification*)?

What is the agency's procedure for notifying the individuals served of their rights?

Describe the agency's grievance procedure for individuals served.

What are the policies and procedures for unusual incident reporting and follow-up?

Describe the agency's crisis intervention and emergency response procedures.

What are the agency's procedures for protecting confidentiality?

ADMINISTRATION:

Describe the agency's record keeping procedures which document the delivery of services and supports and the quality of services delivered.

Describe the agency's management practices regarding supervision of staff.

How are screening and background checks conducted on applicants for employment in positions which provide direct services and supports to individuals served?

What is the agency's policy regarding liability insurance for staff who provide direct services and supports?

Describe the agency's policies and procedures regarding staff training.

BOARD MEMBERS AND BYLAWS (complete if agency is governed by a board):

Attach a list of board members' names and addresses and a statement of each member's financial interest in the agency.

Also, if applicable, attach board bylaws.



9 CSR 45-5.040 Missouri Alliance for Individuals with Developmental Disabilities

PURPOSE: This rule establishes the Missouri Alliance for Individuals with Developmental Disabilities (MOAIDD) and its governing board, and describes its activities. The functions of MOAIDD were previously promulgated under 9 CSR 45-5.010. This new rule separates the MOAIDD functions from the certification process. MOAIDD is an organization of volunteers with developmental disabilities or immediate family members of persons with developmental disabilities which shall conduct visits with individuals receiving services from the Division of Mental Retardation and Developmental Disabilities. This rule defines terms, establishes principles and sets out the process by which MOAIDD will conduct visits.

(1) The Missouri Alliance for Individuals with Developmental Disabilities (MOAIDD) Board shall be established by the Department of Mental Health, Division of Mental Retardation/Developmental Disabilities. The board shall be appointed by the division director.

(A) The MOAIDD Board shall be responsible for the development, modification, evaluation and continuing oversight of the process of volunteer visiting. The MOAIDD Board, in cooperation with the Department of Mental Health, Division of Mental Retardation/Developmental Disabilities, shall determine necessary administrative, staffing and procedural functions of the volunteer visiting and shall advise the division on policy matters. The board is advisory and shall focus on the individuals receiving services. The board shall not review the agency or facility for compliance with local, state, or federal standards.

(B) Membership of the MOAIDD Board shall consist of fifteen (15) individuals with developmental disabilities and/or their family members who reside in the state of Missouri and share involvement in the life of their family member with developmental disabilities. At no time shall less than two (2) members of the board be individuals with developmental disabilities. One individual shall be selected to serve from each of the eleven (11) regions of the state. Four (4) additional individuals shall be selected from the state to serve as at-large members.

(C) Board members shall not serve more than two (2) consecutive three (3)-year terms. Following a one-year period off the board, an individual may be eligible to serve again.

(D) The board shall establish a Constitution and Bylaws, approved by the division, that sets forth its responsibilities, operating procedures and membership guidelines.

(2) Terms defined in sections 630.005 and 633.005, RSMo, are incorporated by reference for use in this rule. As used in this rule, unless the context clearly indicates otherwise, the following terms also mean:

(A) ACD—Accreditation Council on Services for People with Disabilities, also known as The Council on Quality and Leadership in Supports for People with Disabilities.

(B) Agency quality assurance/enhancement—a written document prepared by the regional center and provider agency to address quality assurance issues.

(C) CARF—The Commission for Accreditation of Rehabilitation Facilities, also known as The Rehabilitation Accreditation Commission.

(D) Certification unit—the unit within the Department of Mental Health that administers the certification process described in 9 CSR 45-5.010 for community-based programs funded under the Medicaid HCB waiver program.

(E) Department—the Missouri Department of Mental Health.

(F) Division—the Division of Mental Retardation and Developmental Disabilities within the Missouri Department of Mental Health.

(G) HCB waiver program—the Missouri Medicaid Home- and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

(H) MOAIDD is a self-governing organization of volunteers with developmental disabilities and immediate family members of individuals with developmental disabilities, established by the division, to assess the quality of life for individuals receiving services through the division.

(I) MOAIDD team—a volunteer team consisting of a team leader and at least one team member.

(J) MOAIDD team leader—an experienced team member who has received MOAIDD volunteer training and team leader training.

(K) MOAIDD team member—a person with a developmental disability or such person's immediate family member who has participated in volunteer training, has passed a background screening according to 9 CSR 10-5.190 and has signed a confidentiality statement.

(L) MOAIDD visit—a visit by a MOAIDD team with an individual receiving services

through the division to ensure the individual is living as full a life as possible.

(M) Observations—comments in the MOAIDD team report reflecting positive outcomes present in the individual's life.

(N) Overriding concern—a significant concern in the individual's life identified by the MOAIDD team that, while not a Red or Yellow Flag, needs to be addressed.

(O) Recommendation—an action step suggested by the MOAIDD team intended to address a Yellow Flag issue or overriding concern, or otherwise to enhance the individual's quality of life.

(P) Red Flag—an immediate threat to the individual's health/safety.

(Q) Yellow Flag—a significant, but not immediate, threat to an individual's health, safety or rights.

(3) MOAIDD Visits.

(A) The purpose of the MOAIDD visit is to determine if an individual is living as full a life as possible, not to review local, state or federal standards. This determination is based, in part, on the division's philosophy and guidelines regarding self-determination, community membership, rights, health and safety. Of more significance, the determination is based on the volunteer's own perspective as a person with a developmental disability or the family member of a person with such a disability. Visits are conducted independently from other quality assurance reviews including those by the certification unit.

(B) Who Gets Visited.

1. Routine visits: MOAIDD shall visit individuals served in residential setting by residential providers reimbursed under the HCB Waiver. Not-for-profit providers accredited by CARF or ACD and in good standing with the accrediting agency are exempt from routine visits. If an individual resident in a CARF or ACD accredited agency or that person's guardian requests a MOAIDD visit, the visit can occur with the provider's permission.

2. Requested visits: MOAIDD visits may be requested at any time by an individual, family member or guardian, regional center, or provider to assist with planning and resource development to enhance the individual's life. The permission of the individual or his or her guardian must be obtained. Requested visits shall not be made to individuals receiving residential services from agencies exempted from routine visits in paragraph 1., without the provider's permission.

(C) Schedule of MOAIDD visits. MOAIDD will conduct routine visits alternately with certification, with at least nine (9)



months intervening between routine certification surveys and routine MOAIDD visits. MOAIDD visits are subject to the availability of volunteers. Requested visits will occur as quickly as possible following the request.

(D) Outcome of Visits.

1. MOAIDD visits shall result in observations and recommendations regarding the individual visited. These observations and recommendations shall be reported to the regional center director or designee and to the provider. The regional center shall consider the recommendations, and as appropriate, and with agreement of the individual or guardian, incorporate them in the individual's plan. These recommendations are intended to enhance the life of the individual visited, but may also contain information pertinent to the lives of other individuals served. The regional center and provider shall determine the generalized applicability of the recommendations and shall incorporate those that are pertinent, in the agency's quality assurance/enhancement plan.

2. In addition, section (4) of this rule specifies how the MOAIDD team will react to observing conditions that, in its opinion, require prompt action on behalf of the individual to preserve or protect health, safety or rights.

(4) This section prescribes two (2) sets of indicators referred to as Red and Yellow Flags.

(A) The following conditions shall be considered Red Flags.

1. The team members suspect, for whatever reason, that the individual's health or safety is at immediate risk. This could include situations in which agency staff appear not sufficiently trained/knowledgeable, or otherwise unable, to address threatening health, dietary, medicinal needs or operate prescribed equipment to an extent that it constitutes an imminent or immediate threat.

2. The team members suspect, for whatever reason, that the individual(s):

A. Is being verbally, physically or sexually abused;

B. Is being neglected;

C. Is the victim of verbal manipulation or other type of psychological mistreatment; or

D. Has been mechanically, physically and/or chemically restrained and the restraint is not appropriately addressed in the individual's plan.

(B) The following conditions shall be considered Yellow Flags if the team members believe they constitute a significant but not

immediate threat to an individual's health, safety or rights.

1. The individual does not have a physician or dentist and/or does not see them at least annually.

2. The individual has experienced emotional or physical trauma and his/her needs have not been addressed.

3. Safety devices (smoke detectors, fire extinguishers, locks, railings, etc.) are missing or in need of repair.

4. There are no procedures or practice for emergency situations.

5. Residence appears to be an unhealthy environment (e.g. dirty, strong odors, mildew, wiring is exposed, electrical fixtures and/or plumbing fixtures are broken, broken furniture, unhealthy clutter, heating or air conditioning is inadequate or nonfunctioning, etc.).

6. The individual's ordinary living activities are unreasonably limited or restricted.

7. The individual is not provided with needed information or training that would allow him/her greater independence.

8. Community access rarely occurs or is limited by insufficient staff and/or available transportation.

9. Staff lacks adequate training on health/medical issues, (cardiopulmonary resuscitation, first aid, physical management, nutritional management, drug side effects, seizures and allergies).

10. Staff lacks a means of communication with the individual they serve.

11. There is insufficient staff or staff is unfamiliar with the individual, resulting in staff not meeting the needs of the individual.

12. There is evidence that the individual is, or has been, restricted from activities.

13. Staff is unfamiliar or untrained regarding the specific needs of the individual they support (e.g. behavior, verbal, physical, psychological or recognition of abuse and neglect).

14. Medication is not stored or managed in a safe manner.

15. The individual is restricted from seeing family, friends or guardian.

16. The individual is not treated in a respectful manner by staff/administration.

17. Adaptive equipment is unavailable, broken or restricted from use.

18. Other items, which may not be significant individually but cumulatively, represent a threat to the safety, health or rights of the individual.

(5) MOAIDD visits shall proceed according to the requirements set forth in this section.

(A) The MOAIDD coordinator shall randomly select at least one individual from each residence where an agency provides residential service and shall notify the agency and regional center of the intent to visit.

(B) With the individual's/guardian's permission, pre-visit surveys returnable within thirty (30) days, shall be sent to the individual's family/guardian, residential provider, service coordinator and, when appropriate, daily activities provider.

(C) The MOAIDD team shall—

1. Gather information through observation, review of relevant records and conversation with the individual and staff; and

2. Issue a written report within seventy-two (72) hours to the MOAIDD coordinator for further processing.

(D) The MOAIDD coordinator shall distribute the written report within thirty (30) days of the visit to the individual visited, guardian, residential provider agency appropriate division staff, certification unit, members of the MOAIDD team that conducted the visit and other persons designated by the individual visited or the individual's guardian.

(E) If the MOAIDD team identifies Red Flags, the team shall proceed as follows:

1. The team leader shall remain on-site and immediately notify the MOAIDD coordinator who shall contact the regional center director or designee and request that he/she go to the location where the Red Flag was reported.

2. After the regional center director or designee arrives and the team leader provides any necessary information, the MOAIDD visit ceases and standard division procedures shall be followed. The team leader may then leave the site and contact the MOAIDD coordinator to complete any further documentation.

3. Should the Red Flag result in an abuse/neglect investigation, the findings shall be recorded in the department's Incident and Investigation Tracking System. The regional center director shall incorporate in the agency's quality assurance/enhancement plan the action steps that result from the findings and notify the MOAIDD coordinator of the actions taken. If there are enforcement issues the regional center shall notify the certification unit.

4. If the initial inquiry into the Red Flag does not warrant an abuse/neglect investigation, the regional center shall submit a written report of findings within two (2) working days of the inquiry to the MOAIDD coordinator.

(F) If the MOAIDD team identifies Yellow Flags, the team shall proceed as follows:



1. The team leader shall inform the MOAIDD coordinator of the Yellow Flags within twenty-four (24) hours of the visit.

2. The MOAIDD coordinator shall immediately notify the regional center director or designee of the Yellow Flag issues. The coordinator shall follow up with written notification within two (2) working days following contact with the regional center.

3. The regional center director shall incorporate in the agency's quality assurance/enhancement plan the action steps that result from the findings and notify the MOAIDD coordinator of the actions taken. If there are enforcement issues the regional center shall notify the certification unit.

4. After receiving consent from the individual/guardian, all action steps which pertain specifically to the individual will be documented in his/her personal plan and forwarded to the MOAIDD coordinator.

(G) The regional center director shall review all overriding concerns and recommendations reported by the MOAIDD team. Action steps to address these overriding concerns and recommendations shall be incorporated, as appropriate, in the agency's quality assurance/enhancement plan. They shall also be incorporated in the individual's personal plan, with the consent of the individual/guardian. The regional center director shall provide a written report to the MOAIDD coordinator indicating action taken.

AUTHORITY: section 633.010, RSMo 1994. Original rule filed Feb. 15, 2000, effective Aug. 30, 2000.*

**Original authority: 633.010, RSMo 1980.*

9 CSR 45-5.060 Procedures to Obtain Certification

PURPOSE: This rule describes procedures to obtain certification as a provider of residential habilitation, individualized supported living (ISL), supported employment, and day habilitation (on and off site), through the community-based Medicaid Waiver.

(1) Under sections 630.655, 630.010, and 376.779.3 and 4, RSMo, the department is mandated to develop certification standards and to certify an organization's level of service, treatment or rehabilitation as necessary for the organization to operate, receive funds from the department, or participate in a service network authorized by the department and eligible for Medicaid reimbursement. However, certification in itself does not constitute an assurance or guarantee that the

department will fund designated services or programs.

(A) A key goal of certification is to enhance the quality of care and services with a focus on the needs and outcomes of persons served.

(B) The primary function of the certification process is assessment of an organization's compliance with standards of care. A further function is to identify and encourage developmental steps toward improved program operations, client satisfaction and positive outcomes.

(C) This rule replaces sections 9 CSR 45-5.010(4) and (5) of the Certification of Medicaid Agencies Serving Persons with Developmental Disabilities.

(2) An organization may request certification by completing an application form, as required by the department for this purpose, and submitting the application form, and other documentation, as may be specified, to the Department of Mental Health, PO Box 687, Jefferson City, MO 65102.

(A) The organization must submit a current written description of those programs and services for which it is seeking certification by the department.

(B) A new applicant shall not use a name which implies a relationship with another organization, government agency or judicial system when a formal organizational relationship does not exist.

(C) Certification fees are not required.

(D) The department will review a completed application within thirty (30) calendar days of receipt to determine whether the applicant organization would be appropriate for certification. The department will notify the organization of its determination.

(E) An organization that wishes to apply for recertification shall submit its application forms to the department at least sixty (60) days before expiration of its existing certificate.

(F) An applicant can withdraw its application at any time during the certification process, unless otherwise required by law.

(3) The department shall conduct a site survey at an organization to assure compliance with certification standards, standards of care and other requirements.

(A) The department shall conduct a comprehensive site survey for the purpose of determining compliance with certification standards and program/service rules, except as stipulated in paragraphs (3)(B)1. through 3.

(B) The department recognizes and deems as certified a provider that has attained full

accreditation under standards for Community Services (community living services for Individualized Supported Living (ISL) and residential habilitation and personal and social services for day habilitation) and for Employment Services (supported employment) from the Rehabilitation Accreditation Commission (CARF) or The Council on Quality and Leadership (The Council). The deemed provider must—

1. Submit to the department a copy of the most recent accreditation survey report and verification of the accreditation time period and dates within thirty (30) days of receipt from the accreditation agency.

2. Notify the department when accreditation surveys are scheduled or when accreditation agency makes complaint investigation visit.

3. Notify the department of any changes in accreditation status during the time period of accreditation and resurvey.

4. Identify the department as a primary stakeholder for contact by the accrediting agency during survey and resurvey data gathering processes.

(4) The department shall provide advance notice and scheduling of routine, planned site surveys.

(A) The department shall notify the applicant and the division's regional centers regarding survey date(s), procedures and a copy of any survey instrument that may be used. Survey procedures will include, but are not limited to, interviews with provider staff, individuals being served and other interested parties; tour and inspection of program sites; review of provider administrative records necessary to verify compliance with requirements; review of personnel records and service documentation; observation of program activities.

(B) The applicant agrees, by act of submitting an application, to allow and assist department representatives in fully and freely conducting these survey procedures and to provide department representatives reasonable and immediate access to premises, individuals, and requested information.

(C) An organization must engage in the certification process in good faith. The organization must provide information and documentation that is accurate, and complete. Failure to participate in good faith, including falsification or fabrication of any information used to determine compliance with requirements, may be grounds to deny issuance of or to revoke certification.

(D) The surveyor(s) shall hold entrance and exit conferences with the organization to



discuss survey arrangements and survey findings, respectively. If a surveyor identifies a deficiency that could result in actual jeopardy to the safety, health or welfare of persons served, the surveyor shall not leave the program until an acceptable plan of correction is presented which assures the surveyor that there is no further risk of jeopardy to persons served.

(E) Within thirty (30) calendar days after the exit conference, the department shall provide a written survey report to the provider's director and the division.

1. The report shall note all deficiencies identified during the survey. Every instance in which the certification standards are not met will be cited as a deficiency.

2. The department shall send a notice of deficiency and the report by certified mail, return receipt requested.

3. The provider shall make the report available to the staff and to the public upon request.

(F) Within thirty (30) calendar days of the date that a notice of deficiency and the report is presented by certified mail to the provider, the provider shall submit to the department and regional center a plan of correction.

1. The plan must address each deficiency, specifying the method of correction and the date the correction shall be completed. The provider will work with the regional center to develop a plan of correction. No correction date will exceed one hundred eighty (180) days.

2. Within fifteen (15) calendar days after receiving the plan of correction, the department shall notify the provider and the division of its decision to approve, disapprove, or require revisions of the proposed plan.

3. The surveyor will assure that the plan of correction has been implemented and deficiencies corrected. The department shall determine if it is necessary for the surveyor to make a return visit to the provider based on the criteria of the plan of correction and will notify the division and regional center(s) of revisit.

4. In the event that the provider has not submitted a plan of correction acceptable to the department within sixty (60) days of the original date that written notice of deficiencies was presented by certified mail to the provider, it shall be subject to expiration of certification.

(5) The department may grant certification on a temporary, provisional, conditional, or compliance status. The department will notify the division of any change in the status of a provider.

(A) Temporary status shall be granted to a provider if the survey process has not been completed prior to the expiration of an existing certificate and the applicant is not at fault for failure or delay in completing the survey process.

(B) Provisional status for a period of not exceeding one (1) year shall be granted to a new provider or service, a converted agency or provider, or an existing provider adding a waived service, based on a site review which finds the program in compliance with requirements related to policy and procedure, facility, personnel, and staffing patterns sufficient to begin providing services. The regional center must notify the Licensure and Certification Office as soon as the contract is set up with the provider.

1. In the department's initial determination and granting of provisional certification, the provider shall not be expected to fully comply with those standards which reflect ongoing program activities.

2. The department shall conduct a comprehensive site survey of the provisionally certified provider and shall make further determination of the provider's certification status no sooner than ninety (90) days after the provider begins serving clients nor later than the expiration date of the provisional certificate.

(C) Conditional status shall be granted to a provider following a site survey by the department that determines that there are pervasive and/or significant deficiencies with standards that may affect quality of care to individuals and there is reasonable expectation that the provider can achieve compliance within a stipulated time period. The department shall consider patterns and trends of performance identified during the site survey.

1. The period of conditional status shall not exceed one hundred eighty (180) calendar days. The department may directly monitor progress, may require the provider to submit progress reports, or both.

2. The department shall conduct a further site survey within the one hundred eighty (180)-day period and make a further determination of the provider's compliance with standards.

3. During the period of conditional status, the division may, at its discretion, take actions per sections (10) and (12) of this rule.

(D) Compliance status shall be awarded to a provider for a period of two (2) years following a site survey by the department that determines the provider meets all standards relating to quality of care and the safety, health, rights, and welfare of persons served. If deficiencies are cited during a site survey, any and all such deficiencies must be cor-

rected in accordance with the plan of correction prior to the department awarding compliance status.

(6) The department may investigate any complaint regarding the operation of a certified or deemed certified program or service. If conditions are found that are not in compliance with applicable certification standards, the department may, at its sole discretion, notify the accrediting organization of any concerns.

(7) The department may conduct a scheduled or unscheduled site survey of a provider at any time to monitor ongoing compliance with the certification standards. If any survey finds conditions that are not in compliance with applicable certification standards, the department may require corrective action steps and may change the provider's certification status consistent with procedures set out in this rule.

(8) The department shall certify only the provider(s) named in the application. The provider(s) may not transfer certification without the written approval of the department.

(A) A certificate is the property of the department and is valid only as long as the provider meets standards of care and other requirements.

(B) The provider shall maintain the certificate issued by the department in a readily available location.

(C) Within seven (7) calendar days of the time a certified provider organization is sold, leased, discontinued, moved to a new location, has a change in its accreditation status, appoints a new director, or changes programs or services offered, the provider shall provide written notice to the department of any such change.

(D) A certified provider that establishes a new program or type of program shall operate that program in accordance with applicable standards. A provisional review, expeditious site survey or comprehensive site survey shall be conducted, as determined by the department.

(9) The department may deny issuance of and may revoke certification based on a determination that—

(A) The nature of the deficiencies results in substantial probability of or actual jeopardy to individuals being served;

(B) Serious or repeated incidents of abuse or neglect of individuals being served or violations of rights have occurred;

(C) Fraudulent fiscal practices have transpired or significant and repeated errors in billings to the department have occurred;



(D) Failure to participate in the certification process in good faith, including falsification or fabrication of any information used to determine compliance with requirements;

(E) The nature and extent of deficiencies results in the failure to conform to the certification standards of the program or service being offered; or

(F) Compliance with standards has not been attained by an organization upon expiration of conditional certification.

(10) The department, at its discretion, may—

(A) Place a monitor at a program if there is substantial probability of or actual jeopardy to the safety, health, rights, or welfare of individuals being served.

1. The cost of the monitor shall be charged to the organization at a rate which recoups all reasonable expenses incurred by the department.

2. The department shall remove the monitor when a determination is made that the safety, health, rights, and welfare of individuals being served is no longer at risk;

(B) Take other action to ensure and protect the safety, health or welfare of individuals being served.

(11) An organization which has had certification denied or revoked may appeal to the director of the department within thirty (30) calendar days following notice of the denial or revocation being presented by certified mail to the organization. The director of the department shall conduct a hearing under procedures set out in Chapter 536, RSMo and issue findings of fact, conclusions of law and a decision which shall be final.

(12) The department shall have authority to impose administrative sanctions.

(A) The department may suspend the certification process pending completion of an investigation when an organization that has applied for certification or the staff of that organization is under investigation for fraud, financial abuse, abuse or neglect of persons served, revocation of persons' rights without due process, or improper clinical practices.

(B) The department may administratively sanction a certified organization that has been found to have committed fraud, financial abuse, abuse of persons served, or improper clinical practices or that had reason to know its staff were engaged in such practices.

(C) Administrative sanctions include, but are not limited to, suspension of certification, clinical utilization review requirements, clinical audit, suspension of new admissions, denial or revocation of certification, or other actions as determined by the department.

(D) The department shall have the authority to refuse to accept for a period of up to twenty-four (24) months an application for certification from an organization that has had certification denied or revoked or that has been found to have committed fraud, financial abuse or improper clinical practices or whose staff and clinicians were engaged in improper practices.

(E) An organization may appeal these sanctions pursuant to section (11).

(13) An organization may request the department's exceptions committee to waive a requirement for certification if the head of the organization provides evidence that a waiver is in the best interests of the individuals it serves.

(A) A request for a waiver shall be in writing and shall include justification for the request.

(B) The request shall be submitted to Exceptions Committee, Department of Mental Health, PO Box 687, Jefferson City, MO 65102.

(C) The exceptions committee shall hold meetings in accordance with Chapter 610, RSMo and shall respond with a written decision within forty-five (45) calendar days of receiving a request.

(D) The exceptions committee may issue a waiver on a time-limited or other basis.

(E) If a waiver request is denied, the exceptions committee shall give the organization forty-five (45) calendar days to fully comply with the standard, unless a different time period is specified by the committee.

(14) The organization must comply with other applicable requirements as set forth in 9 CSR 10-5.220 Privacy Rule of Health Insurance Portability and Accountability Act of 1996 (HIPAA).

AUTHORITY: sections 630.050 and 630.655, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Emergency rule filed Feb. 13, 2002, effective March 1, 2002, expired Aug. 27, 2002. Original rule filed Feb. 13, 2002, effective Aug. 30, 2002. Emergency amendment filed April 1, 2003, effective April 14, 2003, expired Oct. 14, 2003. Amended: Filed April 1, 2003, effective Oct. 30, 2003.*

**Original authority: 630.050, RSMo 1980, amended 1993, 1995 and 630.655, RSMo 1980.*