



**RHODE ISLAND DEPARTMENT OF BEHAVIORAL HEALTHCARE, DEVELOPMENTAL
DISABILITIES AND HOSPITALS**

Notice of Public Hearing

The Director of the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals has under consideration proposed amendments to the ***Rules and Regulations for Licensing Agencies Providing Services to Adults with Developmental Disabilities, Parts I-Appendix***. These regulations shall repeal and supersede any prior rules, regulations, and standards relating to the licensure of facilities and programs for adults with developmental disabilities promulgated by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals, however named. The purpose of the proposed amendments to the Regulations is to establish prevailing standards for the licensure and certification of agencies and programs that provide services to adults with disabilities in Rhode Island. These regulations are promulgated to ensure that agencies comply with prevailing standards in providing support and assistance to adults with developmental disabilities. They are promulgated in the best interest of the health, safety, and welfare of the public.

In the development of these proposed amendments to the Regulations, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that the Director will hold a public hearing on the above mentioned matter in the **Arnold Conference Center (in the Eleanor Slater Hospital)** at the John O. Pastore Complex in Cranston, Rhode Island **ON TUESDAY, JANUARY 8, 2013 AT 10:00 A.M.**

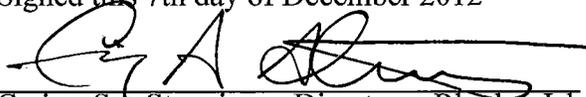
Persons wishing to testify may do so by signing up at the meeting or by submitting written testimony by, **Tuesday, January 8, 2013**, to Heather Daglieri, Esq., Office of Licensure, Department of Behavioral Healthcare, Developmental Disabilities and Hospitals, Barry Hall, 14 Harrington Road, Cranston RI 02920 or via email Hdaglieri@bhddh.ri.gov. The public hearing will begin at 10:00 AM and will conclude when the last speaker finishes testimony or at 12:00 PM, whichever occurs first.

For the sake of accuracy, it is requested that statements to be made relative to any aspect of the regulations, including alternative approaches or overlap, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: Heather Daglieri, Esq., Administrator of Licensing, Rhode Island Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals, Barry Hall, 14 Harrington Road, Cranston, Rhode Island 02920 or via email: HDaglieri@bhddh.ri.gov.

Interested persons may inspect said proposed amendments to the regulations and other related materials on the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals' website at www.bhddh.ri.gov; at the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals, 14 Harrington Road, Cranston, Rhode Island, 02920 between the hours of 9:00 a.m. and 3:00 p.m., Monday through Friday; by calling (401) 462-2324 {via RI Relay 711}; or by emailing HDaglieri@bhddh.ri.gov. Proposed regulations are also posted on the Rhode Island Secretary of State's website: www.sos.ri.gov

The Rhode Island Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals is accessible to persons with disabilities. If communication assistance (readers /interpreters /captioners) is needed, or any other accommodation to ensure equal participation, please notify the Department at (401) 462-2324 or RI Relay 711 at least three (3) business days prior to the public hearing so arrangements can be made to provide such assistance at no cost to the person requesting.

Signed this 7th day of December 2012

A handwritten signature in black ink, appearing to read "Craig S. Stenning", written over a horizontal line.

Craig S. Stenning, Director, Rhode Island Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals

**State of Rhode Island and Providence Plantations
Department of Behavioral Healthcare, Developmental Disabilities and Hospitals**

**Concise Summary of Proposed Technical and Non-technical Amendments
to
Rules and Regulations
For Licensing Agencies Providing Services to Adults with Developmental Disabilities,
Parts I-Appendix**

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, the following is a concise summary of the proposed technical and non-technical amendments which are all being proposed by BHDDH to further promote choice, transparency, quality, fairness, and safety in the delivery of services to adults with developmental disabilities:

- (1) Amendments to “Part I Definitions” to further define and refine terms that are used throughout the regulations;
- (2) Amendments to “Part II Developmental Disability Organizations” to further clarify provisions for the management of a DDO, including, but not limited to, allowing for the flexibility in the governance of an organization by allowing for an advisory board to fulfill a Board of Director’s requirements for those entities that are for profit or not for profit chapters of a national organization providing services in Rhode Island, and to further clarify the Department’s health and safety guidelines for the safe delivery of services to adults with developmental disabilities;
- (3) Amendments to “Part III Provision of Core Services and Participants’ Eligibility/Access to Services” to further describe the development of protocols and procedures for eligibility, access, levels of care determinations for Participants, and the development of individualized service plans for Participants;
- (4) Amendments to “Part IV Services for Adults with Developmental Disabilities” to further describe the prevailing standards for the provision of supports and services to adults with developmental disabilities;
- (5) Amendments to “Part V Health Care Services” are technical in nature;
- (6) Amendments to “Appendix One: Billing Criteria” describes a new service and further refines some existing services; and
- (7) Technical amendments throughout all of the regulations related to numbering, spelling, and grammar.

Part IV *Services for Adults with Developmental Disabilities*

Section 39.0 *Residential Support Services General Requirements*

~~39.1~~ 39.01 If a Participant is assessed to be clinically appropriate for residential services. Residential supports and services for adults with developmental disabilities shall include:

1. Shared Living Arrangements;
2. Community Residence; and
3. Non-congruent Residence Support Services.

~~39.2~~ 39.02 All residences that provide residential support services, other than community residences, shall be reviewed and approved by the Department as an acceptable living arrangement.

~~39.3~~ 39.03 As further described below, each residential modality includes core residential support services and may if clinically appropriate and not otherwise covered by the Participant's health plan include specialized support services. Residential Support Services shall not include payments for room and board and are based upon defined Residential Resource Levels.

~~39.4~~ 39.04 All Residential Support Services shall include at a minimum:

- ~~39.4.1~~ 39.04.01 Development and implementation of a Participant's person-centered plan as developed annually through the ISP as required herein;
- ~~39.4.2~~ 39.04.02 Support and supervision of Participants during the day and night with staffing levels that provide for the documented health and safety needs of a Participant and as provided for through an Participant's ISP, rate based authorization and any and all paperwork developed and produced by the DDO;
- ~~39.4.3~~ 39.04.03 Assistance with activities of daily living;
- ~~39.4.4~~ 39.04.04 Assistance with medical care and medication, including assisting and supporting a Participant's accessing medical and psychiatric treatment, annual primary care visits, and biannual dental visits;
- ~~39.4.5~~ 39.04.05 Skills development;
- ~~39.4.6~~ 39.04.06 Assistance with community participation and inclusion activities;
- ~~39.4.7~~ 39.04.07 Assistance with personal social skills;
- ~~39.4.8~~ 39.04.08 Assistance with use of leisure time skills;
- ~~39.4.9~~ 39.04.09 Provision of transportation;
- ~~39.4.10~~ 39.04.10 Management of health and safety (see section 49.0 herein);

- ~~39.4.11~~ 39.04.11 Management of behavioral issues including the development, when necessary, of a behavioral treatment plan and access to psychiatric care and treatment; and
- ~~39.4.12~~ 39.04.12 Coordination with supported employment and other meaningful day activities.
- ~~39.4.13~~ 39.04.13 Provision of a constructive, positive relationship and living experience for the Participant;
- ~~39.4.14~~ 39.04.14 Maintenance of open communication with DDO and the Department;
- ~~39.4.15~~ 39.04.15 Successful completion and documentation of all training as specified in these regulations and as required by the DDO;
- ~~39.4.16~~ 39.04.16 Provision of, or access to, regular well-balanced meals and snacks;
- ~~39.4.17~~ 39.04.17 A full range of appropriate clothing;
- ~~39.4.18~~ 39.04.18 Maintenance of motor vehicle and homeowners or renters insurance in effect at all times;
- ~~39.4.19~~ 39.04.19 Acceptance of monthly payment from the Participant's SSI budget, or other income, as a full contribution toward room and board costs.
- ~~39.4.20~~ 39.04.20 Protection of the confidentiality of all documents and information related to the Participant;
- ~~39.4.21~~ 39.04.21 Report of all unusual incidents to the Department, and documentation of the occurrence of such incidents on forms provided by the DDO.
- ~~39.5~~ 39.05 The ~~program~~ DDO shall ensure each Participant has a primary physician or primary health care provider whom he or she, the parent, guardian or legal representative has chosen from among qualified providers.
- ~~39.6~~ 39.06 The ~~program~~ DDO shall ensure each Participant receives a medical evaluation by a qualified health care provider no less than every year or as recommended by a physician.
- ~~39.7~~ 39.07 The ~~program~~ DDO shall ensure each Participant receives a dental evaluation by a qualified dental provider no less than twice per year, or as recommended by a qualified dental provider, or as covered by the Participant's health plan or as recommended by a qualified dental provider.
- ~~39.8~~ 39.08 The ~~program~~ DDO shall monitor the health status and physical conditions of each Participant and take action in a timely manner in response to identified changes or conditions that could lead to deterioration or harm.

~~39.9~~ 39.09 A physician's or qualified health care provider's written, signed order shall be required prior to the usage or implementation of all of the following:

- a) Prescription medications;
- b) Non prescription medications except over-the-counter topical;
- c) Treatments other than basic first aid;
- d) Modified or special diets;
- e) Adaptive equipment; and
- f) Aids to physical functioning.

39.10 The ~~program~~ DDO shall implement a physician's or qualified health care provider's order.

39.11 All tests, laboratory work, screenings and referral to other licensed healthcare providers shall be scheduled promptly, documented, and followed through to completion.

39.12 Residential service providers shall not implement weight loss or other restrictive types of diet without approval/authorization of the licensed health care provider and the implementation of a behavioral treatment plan in accordance with the requirements set forth herein.

39.13 The DDO is required to immediately report to the Department hospitalization of the Participant or any and all extended absences from the residence, as specified by the Department.

Neurological Services and Seizures

39.14 The residential service provider shall obtain an initial diagnostic evaluation by a neurologist for Participants who have medications prescribed for seizures. The frequency of follow up evaluations shall be determined by the neurologist, or by the primary licensed health care provider.

39.15 When medically indicated, the residential services provider shall maintain a seizure record in order to provide information for the licensed health care provider. The record shall include:

- a) Date and time that the seizure occurred;
- b) Duration;
- c) Post-seizure status.

Adaptive and/or Medical Equipment

39.16 It is the responsibility of the residential service provider to:

~~39.16.1~~ 39.16.01 Ensure that all adaptive and/or medical equipment is obtained as needed and kept in good repair;

39.16.2 39.16.02 Conduct and complete regular assessments and reviews for proper fit, usage, function; and

39.16.3 39.16.03 Ensure access to current adaptive and medical equipment and include such requests and expenditures through the ISP process and authorization.

Communication with the Day Program

39.17 It shall be the responsibility of the residential service provider to consistently communicate with the day program provider to promote consistency of care and inform the day program provider of any changes or specific issues that should be consistently handled by the two DDOs.

Section 40.0 ***Community Residence Requirements***

~~40.1~~ 40.01 No person, agency or corporation acting individually or jointly with any other person, agency or corporation shall establish, conduct, maintain, manage or operate a Community Residence providing support services for three (3) or more adults with developmental disabilities without being licensed for each Community Residence by the Department.

Non-Transferable

~~40.2~~ 40.02 No license is transferable or applicable to any location, home, or facility, agency, management agent, or ownership other than that indicated on the application and license.

General Staffing Requirements

~~40.3~~ 40.03 Each Community Residence shall provide staff appropriate to the number of Participants served as follows:

40.3.1 <u>40.03.01</u>	Level 1 <u>Tier A:</u>	128-148 weekly schedule hours, or 32-37 hours per Participant 1 staff to 4 clients during client sleep hours 1 staff to 4 clients during client awake hours
40.3.2 <u>40.03.02</u>	Level 2 <u>Tier B:</u>	156-176 <u>128-148</u> weekly schedule hours, or 39-44 <u>32-37</u> hours per Participant 1 staff to 4 clients during client sleep hours 1 staff to 3 <u>4</u> clients during client awake hours
40.3.3 <u>40.03.03</u>	Level 3 <u>Tier C:</u>	196-216 weekly schedule hours, or 49-54 hours per Participant 1 staff to 3 clients during client sleep hours 1 staff to 2.5 clients during client awake hours
40.3.4 <u>40.03.04</u>	Level 4 <u>Tier D:</u>	228-248 <u>320-344</u> weekly schedule hours, or 57-62 <u>80-86</u> hours per Participant 1 staff to 3 <u>2</u> clients during client sleep hours

1 staff to ~~2~~ 1.5 clients during client awake hours

~~40.3.5~~ 40.03.05 ~~Level 5~~ Tier E: ~~280-304~~ 356-392 weekly schedule hours, or ~~70-76~~ 89-98 hours per Participant
1 staff to ~~3~~ 2 clients during client sleep hours
1 staff to ~~1.5~~ 1.25 clients during client awake hours

~~40.3.6~~ Level 6: ~~320-344~~ weekly schedule hours, or ~~80-86~~ hours per Participant
~~1 staff to 2 clients during client sleep hours~~
~~1 staff to 1.5 clients during client awake hours~~

~~40.3.7~~ Level 7: ~~356-392~~ weekly schedule hours, or ~~89-98~~ hours per Participant
~~1 staff to 2 clients during client sleep hours~~
~~1 staff to 1.25 clients during client awake hours~~

40.04 All staff shall be awake staff.

~~40.4~~ 40.05 A DDO community residence service provider shall provide the Department with notice at least thirty (30) days in advance of any and all plans to move a Participant to a new address within the State of Rhode Island. No Participant shall be moved to a new address without the prior, written approval of the Department and the consent of the Participant, legal guardian, family and/or advocate. This approval may require the creation of a new SIS, the reconvening of the ISP team, or the development of a new Individualized Support Plan. Failure to follow this requirement shall result in a recouplement action for the unauthorized placement of a Participant.

Section 41.0 *Non-congregant Residential Support Services*

~~41.1~~ 41.01 A licensed DDO can apply for Non-congregant Residential Support Services which are licensed residential services, as defined herein. The Non-congregant residential support service includes core residential support services and may include specialized residential support services. Non-congregant residential support services do not include payments for room and board. Payments for non-congregant residential support services are based on residential resource levels.

~~41.2~~ 41.02 Staffing Levels ~~should~~ shall be sufficient to meet the health and safety requirements of the Participants. Staffing levels are as described and provided for in the authorized individualized support plan.

a) All staff shall be awake staff.

~~41.3~~ 41.03 Any and all locations identified as residences for ~~participants~~ Participants shall be inspected, reviewed and approved by the Department. The Department shall not fund residential services in locations that have not received prior approval by the Department as

meeting the minimum health and safety guidelines for Participant residences as described herein.

41.4 ~~41.04~~ A DDO non-congregant residential service provider shall provide the Department with notice at least thirty (30) days in advance of any and all plans to move a Participant to a new address within the State of Rhode Island. No Participant shall be moved to a new address without the prior, written approval of the Department and the consent of the Participant, legal guardian, family and/or advocate. This approval may require the creation of a new SIS, the reconvening of the ISP team, or the development of a new Individualized Support Plan. Failure to follow this requirement shall result in a recoument action for the unauthorized placement of a Participant.

Section 42.0 *Shared Living Arrangements*

Shared Living Arrangements

42.1 ~~42.01~~ Shared living arrangements shall be provided by a shared living placement agency that is a licensed DDO and that has been issued a residential support service license and an SLA license by the Department.

42.2 ~~42.02~~ Participants ~~determined by the SIS who are~~ who are found eligible for residential support services must be considered for shared living arrangement services before being approved for any other type of residential services.

Qualifications for Shared Living Arrangement ~~Provider~~ Contractor

42.3 ~~42.03~~ Shared living arrangement ~~providers~~ contractors shall have the following minimum qualifications:

42.3.1 ~~42.03.01~~ Possess a current driver's license, current automobile insurance coverage, and a vehicle that can properly and safely transport a Participant, based upon the Participant's needs.

42.3.2 ~~42.03.02~~ ~~Be certified by the state, which includes the completion of~~ Complete a state and national criminal background check;

42.3.3 ~~42.03.03~~ Be at least eighteen (18) years of age;

42.3.4 ~~42.03.04~~ Have a high school diploma or GED certification; and

42.3.5 ~~42.03.05~~ Have documentation of a current and valid certification in cardiopulmonary resuscitation ~~training certification.~~ (CPR) and documentation of annual refresher training in CPR.

42.03.06 Have documentation of annual first aid training.

Recruitment, Selection and Matching

- 42.4 ~~42.04~~ The DDO shared living placement agency shall have written policies and procedures for identifying and selecting appropriate shared living arrangement ~~providers~~ contractors. The DDO Shared Living Placement Agency shall be responsible for the:
- 42.4.1 ~~42.04.01~~ Recruitment of qualified shared living arrangement ~~providers~~ contractors;
 - 42.4.2 ~~42.04.02~~ Evaluation of potential shared living arrangement ~~providers~~ contractors/ shared living arrangement study;
 - 42.4.3 ~~42.04.03~~ Selection of qualified shared living arrangement ~~providers~~ contractors;
 - 42.4.4 ~~42.04.04~~ Matching of qualified shared living arrangement ~~providers~~ contractors to Participants;
 - 42.4.5 ~~42.04.05~~ Ensuring Participant's choice in determining shared living arrangement ~~provider~~ contractor;
 - 42.4.6 ~~42.04.06~~ Inclusion of family members, friends, advocates, as appropriate in determining shared living arrangement ~~provider~~ contractor;
 - 42.4.7 ~~42.04.07~~ Reporting and investigating of suspected abuse, neglect, and mistreatment of Participants in accordance with the Rhode Island General Laws, as amended;
 - 42.4.8 ~~42.04.08~~ Facilitation of interviews between Participants to be served and ~~host families~~, qualified shared living arrangement contractors; and
 - 42.04.09 Providing and documenting pre-service training for qualified shared living arrangement contractors.

Shared Living Arrangement Study

42.5 ~~42.05~~ The DDO shared living placement agency shall be responsible for developing a written policy and procedure to ensure comprehensive evaluation of a shared living arrangement ~~provider~~ contractor for suitability and compatibility based on personal experience, characteristics, conduct, demeanor, integrity, capacity, and philosophy. In recruiting shared living arrangement provider contractors, the DDO shared living placement agency shall consider the following in addition to the minimum qualifications identified in section 42.03:

- a) Character references;
- b) BCI/NCIC check on the shared living arrangement ~~provider~~ contractor and each adult household member;
- c) Extensive personal interviews;
- d) Home inspection report;
- e) Lifestyle;
- f) Personal preferences;
- g) Cultural and religious values;
- h) Family and friend involvement;
- i) Compatibility with animals and children;
- j) Smoking preference.

Shared Living Placement Agency Records

~~42.6~~ 42.06 The DDO shared living placement agency shall maintain current records on each shared living arrangement ~~provider~~ contractor. These records shall include, but shall not be limited to the following:

- a) Applications;
- b) Reference checks;
- c) State and national criminal background checks;
- d) Shared living arrangement study and inspection report, and as ~~appropriate~~ applicable, documentation of insurance;
- e) Notes regarding communication with or about the shared living arrangement ~~provider~~ contractor;
- f) Suitable driving record and documentation of motor vehicle insurance;
- g) Contract between the shared living placement agency and the shared living arrangement ~~provider~~ contractor.
- h) Documentation of a current and valid certification in cardiopulmonary resuscitation (CPR) and documentation of annual refresher training in CPR.
- i) Documentation of annual first aid training.
- j) Documentation of successful completion of pre-service training.
- k) Documentation of all on-going training.

~~42.7~~ 42.07 These records shall be the property of the DDO shared living placement agency and shall be maintained in a confidential manner as required by law and for a minimum of seven (7) years.

~~42.8~~ 42.08 ~~The shared living placement agency shall obtain criminal background checks on each adult household member.~~ The DDO share living placement agency shall ensure that all records comply with the requirements as described in section 9.01 herein.

~~42.9~~ 42.09 The DDO shared living placement agency shall report all suspicion of abuse, neglect, and or mistreatment to the Department, as required by section 26.0 herein.

Training

42.10 Pre-service training is required prior to contracting as a shared living arrangement ~~provider~~ contractor. DDO shared living placement agencies shall ~~conduct~~ ensure specialized training for host families shared living arrangement contractors attend pre-service training and specialized training as needed.

42.11 Pre-service training shall be documented and include but is not limited to the following:

- a) Roles and responsibilities of the shared living arrangement ~~provider~~ contractor;
- b) Human Rights of Adults with Developmental Disabilities;
- c) Mandatory reporting of abuse, neglect and mistreatment of adults with developmental disabilities to the Department and appropriate law enforcement agencies;
- d) Community integration and creation and support of natural supports;
- e) Annual Individual Service Plan process;

- f) Documentation;
- g) Access to medical and psychiatric supports;
- h) Self determination;
- i) ~~CPR~~: Cardiopulmonary resuscitation (CPR) and first aid;
- j) Individualized specific person centered planning;
- k) Confidentiality.

Contract Requirements

- 42.12 The DDO shared living placement agency shall develop a detailed annual contract with the shared living arrangement ~~provider~~ contractor.
- 42.13 By contract the DDO shared living placement ~~DDO~~ agency shall provide for, describe and require:
- ~~42.13.1~~ 42.13.01 The specific roles and responsibilities related to the provision of Respite services;
 - ~~42.13.2~~ 42.13.02 The development of an appropriate respite schedule;
 - ~~44.13.3~~ 42.13.03 Adherence to requirements for storing firearms as described in these standards;
 - ~~44.13.4~~ 42.13.04 The requirement for immediately notification to the DDO and the Department of any changes in BCI/NCIC status and/or DMV license status;
 - ~~44.13.5~~ 42.13.05 Immediate notification to the DDO of any new member of the household;
 - ~~44.13.6~~ 42.13.06 Successful completion of any training specific to the Participant, as determined necessary by the ISP, and specified in both the annual ISP and the contract;
 - ~~44.13.7~~ 42.13.07 Contractually required routine communications with the DDO the progress and Participant supported in the Shared Living Placement.
- 42.14 The Shared Living Arrangement shall be terminated if the shared living ~~provider~~ contractor or any other member of the shared living household has:
- a) Been charged with or convicted of a criminal offense;
 - ~~b) Has current unresolved problems with alcohol or other substances;~~
 - e b) Abused, neglected, mistreated or exploited a child or adult;
 - ~~d-c)~~ Suffered serious illness or injury that impacts delivery of care to the Participant;
 - e d) Unusual stressful or dangerous situations that exists in the home that impacts the appropriate care and support of the Participant;
 - ~~f e)~~ Failure to comply with any of the requirements of the SLA ~~provider~~ contractor contained herein; or
 - gf) The Participant chooses to leave.

- 42.14.01 The Shared Living Arrangement may be terminated if the shared living contractor or any other member of the shared living household has current or unresolved problems with alcohol or other substances. The DDO shared living placement agency shall notify the Department immediately upon discovery. The SLA may continue with the shared living contractor only upon written approval from the Department.
- 42.15 The Participant shall be promptly removed from the home if a situation exists in the home that imperils the health, safety or well being of the Participant in the care of the shared living arrangement ~~provider~~ contractor.
- 42.16 The DDO shared living placement agency has full discretion, with prior approval from the Department, to immediately terminate the SLA. The SLA may also be terminated at the request of the Participant for any reason.
- 42.17 The DDO shared living placement agency shall have the ability to respond to a wide range of situations that may arise in shared living arrangements and to problem solve, when necessary.
- 42.18 In order to effectively support shared living arrangements, the DDO Shared Living Placement Agency staff shall have education, training, and experience in the following areas:
- a) Supporting Participants in community settings;
 - b) Developing Individualized Support Plans for individualized community based supports;
 - c) Family systems;
 - d) Development of natural support systems and meaningful community integration; and
 - e) Creative problem solving that focuses on positive reinforcements and supports.
- 42.19 The DDO Shared Living Placement Agency staff shall have face to face personal contact with the Participant and the shared living arrangement ~~provider~~ contractor at a minimum:
- a) weekly during the first two (2) months of placement;
 - b) once (1) a month ongoing for the duration of the SLA placement: and/or
 - c) as frequently as determined clinically appropriate in the development of the ISP.
- 42.20 Personal contact shall include all of the following:
- a) Direct contact one on one with the Participant alone;
 - b) Direct contact alone with the shared living arrangement ~~provider~~ contractor;
 - c) Direct contact at the shared living home the Participant and shared living arrangement ~~provider~~ contractor together in the home.

Documentation

- 42.21 The DDO shared living placement agency shall develop, maintain and provide oversight of the annual ISP.

- 42.22 The DDO shared living placement agency shall provide the SLA ~~provider~~ contractor with the Department's mandatory reporting requirements and forms for documenting and reporting unusual incidents to the Quality Assurance/Improvement Hotline.
- 42.23 The DDO shared living placement agency shall document routine and on-going contacts with the SLA ~~Provider~~ contractor and Participant, and ensure the completion of a monthly written progress report.
- 42.24 The DDO shared living placement agency shall complete all required healthcare documentation as required herein.
- 42.25 ~~The shared living placement agency shall complete an encounter data tracker and submit the monthly data to the Department by the third of the month.~~ The DDO shared living placement agency shall submit the daily attendance to the Department.

Home Inspections/Maintenance in Shared Living Arrangements

- 42.26 The DDO shared living placement agency shall complete and document an initial and subsequent annual inspection of the property/home environment.
- 42.27 The initial inspection shall be conducted prior to a Participant moving in to the shared living arrangement.
- 42.28 The DDO shared living placement agency shall notify the shared living arrangement ~~provider~~ contractor in writing of any repairs or modifications that need to be completed.
- a) The shared living placement agency is responsible for assuring that all repairs or modifications are made in a timely manner.
- 42.29 An SLA ~~provider~~ contractor shall provide the DDO shared living placement agency with at least thirty (30) days advanced notice of plans to move to a new address. The DDO shared living placement agency shall immediately notify the Department of any such notice. Prior to any above referenced move to a new address there shall be a new home inspection conducted and approved by the Department in accordance with the health and safety requirement contained herein.

Physical Environment in Shared Living Arrangements

- 42.30 At a minimum the SLA home shall be heated and ventilated adequately and shall have telephone service.
- 42.31 Any and all firearms shall be kept in a locked storage space with any ammunition stored separately in a locked space and/or all firearms shall be incapacitated by means of use of a trigger lock, or locking of essential parts of the firearm; and/or the removal and separate locking of such essential parts.

- 42.32 Emergency telephone numbers, including fire, police, physician, poison control, shall be documented and easily accessible.
- 42.33 Each Participant shall have his or her own bedroom with the exception of a husband and wife, parent and child, or a pair of siblings or friends seeking the same shared living arrangement who have requested to share a bedroom:
- 42.34 The bedroom shall include a window or external door, closet/appropriate storage, and latching door for privacy. Bedroom windows shall open from the inside without the use of tools and provide a clear opening of not less than twenty (20) inches in width by twenty-four (24) inches in height, and 5.7 square feet in area. The bottom of the window opening shall not be more than forty-four (44) inches off the floor. No Participant shall have a bedroom in a basement/cellar.
- 42.35 No living room, dining area, or other area of the home, that is not ordinarily a sleeping room, may be used for such purpose by a member of the household on a regular basis.
- 42.36 The home shall be appropriately accessible to the Participant's needs.
- 42.37 No chain or bolt locks shall be used on the bathroom, or the Participant's bedroom door.
- 42.38 The water temperature shall not exceed one hundred and twenty (120) degrees Fahrenheit.

Fire Safety in Shared Living Arrangements

- 42.39 The home shall be free of dangers, including but not limited to:
- a) faulty electrical cords;
 - b) overloaded electrical sockets; or
 - c) an accumulation of papers, paint, or other flammable material stored in the home.
- 42.40 There shall be at least two (2) accessible exits from each floor level used for sleeping.
- 42.41 Shared living arrangement ~~providers~~ contractors shall have a written evacuation plan to be used in the event of fire and shall ensure that, consistent with their ability to comprehend, Participants understand the plan.
- 42.42 The DDO shared living placement agency and the ~~provider~~ contractor shall determine an appropriate schedule of evacuation plan drills, which shall include at least two (2) annual drills, one (1) of which shall be conducted during sleeping hours.
- 42.43 The evacuation plan shall include, but shall not be limited to, the following:
- a) a description of two (2) or more means of exit from each floor level used for sleeping;
 - b) a central meeting place outside the home; and
 - c) a means of evacuating a Participant who needs assistance.
- 42.44 The home shall provide an adequate number of smoke detectors that are properly installed, located and functioning.

- 42.45 Smoke detectors shall at a minimum be tested quarterly.
- 42.46 There shall be at least one (1) smoke detector in the basement and at a minimum of one (1) smoke detector on each floor level, and outside each sleeping area.
- 42.47 The home shall place a functioning, portable, all purpose fire extinguisher in the cooking area of the home.
- 42.48 The home shall have a functioning carbon monoxide detector in the hallway where bedrooms are located and in the basement or in close proximity to any furnace that may be located elsewhere in the home.

Participant Funds

- 42.49 The DDO shared living placement agency shall develop policies and procedures related to the management and accountability of the Participant's funds and maintenance of all Participant financial records for a minimum of seven (7) years. These policies shall include, but shall not be limited to, the following:
- 42.49.1 42.49.01 A percentage of the Participant's SSI benefit or other income to the shared living arrangement ~~provider~~ contractor to offset room and board expenses. The aforementioned room and board payment shall not exceed the equivalent of two-thirds (2/3) of the standard monthly SSI benefit. The details of this determination shall be made at the time of the placement decision and shall be referenced in the annual ISP and the DDO contract with the shared living arrangement ~~provider~~ contractor.
- 42.49.2 42.49.02 Should the shared living arrangement ~~provider~~ contractor manage the Participant's personal needs funds, the shared living placement agency shall require documentation of expenditures and shall audit this process annually at a minimum.
- 42.49.3 42.49.03 The shared living arrangement ~~provider~~ contractor shall not be named as the beneficiary of any insurance policy held by the Participant or testamentary instrument and/or document or gift executed by the Participant.
- 42.49.4 42.49.04 The DDO shared living placement agency shall not be the legal guardian or Power of Attorney of the Participant.
- 42.49.05 All expenditures of Participant funds exceeding ten dollars (\$10.00) shall be documented with receipts and be reconciled monthly by the shared living placement agency.
- 42.50 The shared living arrangement ~~provider~~ contractor shall coordinate any and all day supports including supported employment and other meaningful day activities.
- 42.51 The Department reserves the right to specify the payment system for shared living.

~~42.51.1~~ 42.51.01 For Participants new to a shared living arrangement, the state shall pay the shared living placement agency from the day the person moves into the shared living ~~provider's~~ contractor's home through the end of the month.

~~42.51.2~~ 42.51.02 For Participants who leave their shared living arrangement, the state shall pay the shared living placement agency from the beginning of the month up to and including the day the Participant leaves the shared living ~~provider's~~ contractor's home.

~~42.51.3~~ 42.51.03 Should the Participant leave the shared living arrangement during the month and return within the same month (i.e., hospitalization), the Department shall pay the shared living ~~provider~~ contractor from the beginning of the month through the day that the Participant leaves, and the day that the Participant returns to the shared living ~~provider's~~ contractor's home through the end of the month.

42.52 Participants in a Shared Living Arrangement are eligible to receive specialized support services.

Emergency Placement

42.53 The DDO shared living placement agency shall identify a procedure for accommodating a Participant who needs to be removed from a shared living arrangement in an emergency.

42.54 The DDO shared living placement agency shall maintain the ability to safely accommodate the Participant should such a situation arise.

42.55 The DDO shared living placement agency shall establish a process to ensure twenty-four (24) hour access to the support coordinator or other designated backup in emergencies.

Health Care

42.56 Shared living arrangement ~~providers~~ contractors shall work cooperatively with the shared living placement agency in the management of the person's health and safety securing required preventive, routine, and emergency health care services for the Participant as required for all Residential Service Providers and contained herein as part of the Core Residential Services

42.57 The DDO shared living placement agency shall ensure that health care services are provided and documented for the Participant in accordance with the requirements contained herein.

Management of Behavioral Issues

42.58 Shared living arrangement ~~providers~~ contractors shall work cooperatively with the DDO shared living placement agency in the development and implementation of positive reinforcement and behavioral programs that ameliorate and support Participants to live safely in the least restrictive environments, management of the Participant's psychiatric and behavioral health care needs, securing required preventive, routine, and emergency behavioral healthcare services for the Participant as required for all Residential Service Providers and contained herein as part of the Core Residential Support Services.

42.59 The DDO shared living placement agency shall ensure that behavioral treatment programs are developed and documented in accordance with the requirements contained herein.

Controlled Medications

42.60 The DDO shared living placement agency shall ensure that controlled medication is accounted for through the use of an accountability record for all Schedules I, II, III, IV, or V medications. Shared living arrangement ~~providers~~ contractors shall be trained in the proper use, documentation and maintenance of this accountability record. The accountability record shall, at a minimum, include the following information:

- a) Name of the Participant for whom the medication is prescribed;
- b) Name, dosage, and route of medication administration;
- c) Dispensing pharmacy;
- d) Date received from pharmacy;
- e) Quantity received;
- f) Date(s) administered and reason for administration.

Health Care Training Requirements

42.61 Shared living arrangement ~~providers~~ contractors shall complete an approved course in Cardiopulmonary Resuscitation (CPR) and be certified in CPR prior to the placement of any Participant in the home. Shared living arrangement contractors shall also complete an approved course in First Aid prior to placement of any Participant in the home.

42.62 The shared living arrangement ~~provider~~ contractor shall submit to the agency documentation of CPR and First Aid course completion and CPR Certification.

42.63 The shared living arrangement ~~provider~~ contractor shall submit a copy of a current CPR certificate or completion card at renewal, at minimum, every two (2) years and training consistent with the health and wellness standards contained herein.

Limitations/Exclusions

42.64 Participant shall not receive shared living arrangement services and group residential support services or independent living services simultaneously.

42.65 A Shared Living ~~Provider~~ contractor shall receive prior approval by the Department before delivering the shared living arrangement service. A shared living arrangement ~~provider~~ contractor may not provide placement from more than one (1) state-referring agency at a time; except where expressly approved by the Director of BHDDH. Adults and minor Participants shall not be placed at a SLA home without the prior written approval of both the Department and the DCYF.

- 42.66 A Shared Living ~~Provider~~ contractor shall not provide placement for more than one (1) Participant at a time without the prior written approval of the Director of BHDDH. A shared living arrangement ~~provider~~ contractor shall not provide residential placement for more than two (2) Participants. Placements with three (3) or more Participants are considered Community Residences.
- 42.67 Supports and services provided to a Participant in the home of a natural or adoptive parent or grandparents shall be considered Community Based Support Services and shall not be considered or reimbursed as residential support services including but not limited to SLA services.
- 42.68 Shared living arrangement ~~providers~~ contractors currently not affiliated or contracting with a DDO shall, on or before ~~January~~ July 1, 2013, enter into a contractual agreement to provide supports and services through a licensed shared living arrangement ~~provider~~ agency.

Additional Service Criteria

- 42.69 In general, Participants receiving the shared living arrangement service participate in meaningful day activities or employment programs. The meaningful day activities are paid under a separate service.

Section 43.0 *Day Activity Services*

~~43.1~~ 43.01 Day activities may include:

- a) Day program service;
- b) Prevocational training;
- c) Supported employment; or
- d) Job development

Section 44.0 *Day Program Services*

~~44.1~~ 44.01 Day Program Services are licensed services offered at a center-based day program or a community-based day program by a licensed developmental disability organization with a service license authorized to provide Day Program services. The types and level of services that are provided to a Participant in a center-based day service or a community-based day service are based on the Participant's individual needs as provided for in the Participant's ISP.

~~44.2~~ 44.02 Day Program services shall at a minimum provide:

- ~~44.2.1~~ a) Ongoing regular support for completion of routine tasks including indirect support or a moderate amount of direct support;
- ~~44.2.2~~ b) Supports shall include verbal reminders, organization or environmental cues, structured activities, assistance in decision-making, and assistance in avoiding risky situations;
- ~~44.2.3~~ c) Ongoing, regular support to teach new skills and skills maintenance; and

- 44.2.4 d) Assessment and periodic professional services.
 - 44.2.5 e) Education, training and opportunity to acquire the skills and experience needed to participate in the community;
 - 44.2.6 f) Building problem solving skills, social skills, adaptive skills, activities of daily living skills, and leisure skills.
 - 44.2.7 g) Assistance in establishing friendships, using public transportation, participating in community events, or otherwise undertaking activities to promote community integration.
 - 44.2.8 h) Habilitative rather than explicit employment related objectives.
 - 44.2.9 i) Medical supports as clinically appropriate;
 - 44.2.10 j) Behavioral supports and services as clinically appropriate.
- 44.3 44.03 ~~During the period when interim funding levels are in place, seven (7) day program resource levels shall be in place.~~ Day program resource levels vary by day program setting. Each day program resource level shall be based on the weekly schedule for a 30-hour per week day program.
- 44.4 44.04 The expected staffing shall be measured as a staff-to-Participant ratio as follows:
- 44.4.1 44.04.01 ~~Level 1~~ Tier A: One staff member to ten Participants in a center-based setting, one staff member to five Participants in a community-based setting, and one staff member to ten Participants in a home-based setting.
 - 44.4.2 44.04.02 ~~Level 2~~ Tier B: One staff member to eight Participants in a center-based setting, one staff member to five Participants in a community-based setting, and one staff member to eight Participants in a home-based setting.
 - 44.4.3 44.04.03 ~~Level 3~~ Tier C: One staff member to five Participants in a center-based setting, one staff member to two Participants in a community-based setting, and one staff member to five Participants in a home-based setting.
 - 44.4.4 44.04.04 ~~Level 4~~ Tier D: One staff member to three Participants in a center-based setting, one staff member to two Participants in a community based setting, and one staff member to two Participants in a home-based setting.
 - 44.4.5 44.04.05 ~~Level 5~~ Tier E: One staff member to ~~two~~ one Participants in either a center-based setting, a community-based setting, or a home-based setting.
 - 44.4.6 ~~Level 6: One staff member to one Participant~~
 - 44.4.7 ~~Level 7: Greater than one staff member to one Participant.~~

44.5 ~~44.05~~ In addition to the weekly schedule staff-to-Participant ratio, each day program resource level shall assume ~~at least one (1) full-time supervisor for every thirty (30) Participants.~~ supervisory time of the direct service professionals providing services to a staff-to-Participant ratio group. The expected supervisory time is, at minimum:

44.05.01 Tier A: Three (3) hours per direct service professional per week for the participant groups identified in 44.04.01;

44.05.02 Tier B: Two and one half (2.5) hours per direct service professional per week for the participant groups identified in 44.04.02;

44.05.03 Tier C: Two (2) hours per direct service professional per week for the participant groups identified in 44.04.03;

44.05.04 Tier D: One and one half (1.5) hours per direct service professional per week for the participant groups identified in 44.04.04; and

44.05.05 Tier E: One and one quarter (1.25) hours per direct service professional per week for the participant groups identified in 44.04.05.

44.6 ~~44.06~~ The following day program services shall be provided to the Participant, depending on their individual needs:

44.6.1 a) Assistance with and supervision of Activities of Daily Living (ADLs) in a safe and hygienic manner; with recognition of Participants' dignity and right to privacy; and in a manner that encourages the maximum level of independence. (ADLs include bathing, dressing, eating, toileting, transferring, and mobility);

44.6.2 b) Planned individual and group activities;

44.6.3 c) Program activities shall be available to all program Participants;

44.6.4 d) A structured program plan of activities shall be available and posted daily to assist with orientation;

44.6.5 e) Participants shall be encouraged to take part in activities, but may choose not to do so or may choose another activity;

44.6.6 f) Participants shall be allowed time for rest and relaxation and to attend to personal and health care needs;

44.6.7 g) Activity programming shall be available during all hours of operation;

44.6.8 h) Programming shall take into consideration individual differences in age, health status, sensory deficits, life-style, ethnicity, religious affiliation, values, experiences, needs, interests, abilities, and skills by providing opportunities for a variety of types and levels of involvement;

- 44.6.9 i) Programming shall provide a balance of purposeful activities to meet the Participants' interrelated needs and interests (social, intellectual, cultural, economic, emotional, physical, and spiritual); or
- 44.6.10 j) Programming shall be designed to promote personal growth and enhance the self-image and/or to improve or maintain the functioning level of the Participants to the extent possible within the setting;
- 44.7 44.07 The environment shall be conducive to facilitating activities and Participants shall be assisted in maintaining maximum mobility and independence.
- 44.8 44.08 Depending on the level of need, health education and counseling shall be provided or arranged at different levels of intensity for Participants and/or their family members/caregivers/legal representatives.
- 44.9 44.09 Participants and their family members/caregivers/legal representatives shall be assisted in learning about and using community resources for financial, social, personal, recreational, advocacy, educational, health, caregiver support, and other services.
- 44.10 Coordination of community services for Participants and/or their family members/caregivers/legal representatives shall be provided.
- 44.11 The Department expects these services will be available to Participants for a minimum of six (6) hours daily, for two hundred and fifty-seven ~~(257)~~ (250) days per year.

Section 45.0 ***Job Development and Assessment***

- 45.1 45.01 Job development or assessment is actions to develop, locate, and secure employment of Participants. These services include assisting Participants to decide what type of employment most interests them, what the Participant's strengths and capabilities are, what jobs the Participant is best suited for, what additional training or schooling is needed, and developing a plan for achieving vocational goals. By ~~June 30, 2012~~ January 1, 2014, all job developers shall be credentialed by the Department under the Department's credentialing criteria.
- 45.2 45.02 Pre-vocational training services are to assist the Participant in the development of employment related skills. Such skills include specifically how to:
1. Use work related equipment;
 2. How to observe work-related personal safety skills;
 3. Specialized work-related training and education.
- 45.3 45.03 Participants may be paid by the provider of center-based employment for work performed according to the standards established by the state Department of Labor and Training.
- 45.4 45.04 Prevocational training is intended to be a service that Participants receive on a time-limited basis in preparation for securing paid employment by an employer other than the DDO. This service can include support for non-salary activities that can help prepare a Participant for paid employment at some later date.

Supported Employment

~~45.5~~ 45.05 Supported employment services are intended to help the Participant develop specific job skills necessary for successful employment. Employment may involve performance of a standing job, work to complete portions of a job or uniquely tailored work. Supported employment services assist a Participant to choose, get and keep a paid job in an integrated community business setting.

~~45.6~~ 45.06 The goal of supported employment services is to assist the Participant in securing paid employment; Supported employment services may be provided as either individualized supported employment or group supported employment.

Components

~~45.7~~ 45.07 Supported employment services shall include the following components:

~~45.7.1~~ 45.07.01 Participants shall be working toward competitive work, consistent with strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals;

~~45.7.2~~ 45.07.02 Services shall be conducted in a variety of settings; particularly work sites in which persons without disabilities are employed;

~~45.7.3~~ 45.07.03 Services shall assist the Participant with job-related support needs, including, but not limited to:

- a. personal hygiene
- b. dressing
- c. grooming
- d. eating
- e. toileting
- f. ambulation or transfers
- g. social skills
- h. behavioral support needs
- i. medical tasks that can be delegated.

Qualifications

~~45.8~~ 45.08 A provider of supported employment services shall:

- a) Be certified by the state, which includes the completion of a criminal, abuse/neglect registry and professional background check;
- b) Be at least eighteen (18) years of age;

- c) Have a high school diploma or GED certification;
- d) Have education or experience to illustrate the skills required to perform the job;
- e) Receive specialized training from the licensed developmental disability organization.

~~45.9~~ 45.09 The Participant receiving supported employment services shall not receive supported employment services in excess of eight (8) hours per day and five (5) days per week.

45.10 Supported employment services do not include, but are not limited to the following:

- a) Support provided by someone who does not meet the minimum independent provider qualifications as specified herein;
- b) Illegal activities;
- c) Legal fees;
- d) Services or activities carried out in a manner that constitutes abuse of an adult;
- e) Care, training, or supervision that has not been arranged according to applicable state and federal wage and hour regulations;
- f) Rate enhancements to a Participant's existing employment/community inclusion service;
- g) Payment for the supervisory activities rendered as a normal part of the business setting;
- h) Incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;
- i) Payments for vocational training that is not directly related to an Participant's supported employment program; and
- j) Services that are not necessary or cost-effective.

45.11 For purposes of this regulation, supported employment services must not replace services available under a program funded under the Rehabilitation Act of 1973.

45.12 The DDO shall file a "Supported Employment in a Therapeutic Settings" form with the Medicaid Authority on behalf of the individual. The DDO shall file forms as necessary based on any changes in the employment situation.

Transportation

~~45.12~~ 45.13 The DDO providing residential services shall be responsible for the provision of transportation for Participant to and from their residential setting to their day activity, unless otherwise specified in the Participant's ISP.

~~45.13~~ 45.14 Transportation is a program that provides transportation of a Participant from his/her residence, or the immediate vicinity thereof, to and from the Participant's program for the purpose of participating in employment/day activities approved by the Department. In providing these services, the DDO shall utilize the most clinically appropriate, least restrictive method of transporting the Participant.

~~45.14~~ 45.15 DDOs should make every effort to participate in the Paratransit Program RIDE or any other statewide initiative that provides transportation for Participants.

Section 46.0 *Self-Directed Care and Services*

~~46.1~~ 46.01 Self-directed services offer the Participant and their family the opportunity to hire, train, and supervise employees tasked with providing direct services. Self-directed services support the Participant in allocating funds as outlined in the Individual Service Plan and facilitate employment of staff by the Participant. These services should support a Participant's ability to live in his/her home or the family home; be cost-effective arrangements for obtaining supports, applying public, private, formal, and informal resources; and be consistent with goals established in the Participant's ISP.

~~46.2~~ 46.02 Self-directed services shall include, but are not limited to:

1. Fiscal Intermediary Services;
2. Support Facilitator Services;
3. Participant Directed Goods and Services.

Fiscal Intermediary Services

~~46.3~~ 46.03 The Participant's fiscal intermediary shall be a licensed DDO authorized to receive and distribute support funds or Participant directed goods or services on behalf of a Participant in accordance with the Participant's Individualized Service Plan.

~~46.3.1~~ 46.03.01 Services include reimbursing individuals and/or DDOs on behalf of the Participant, acting as a payroll agent for the Participant, providing a monthly expenditure report to the Participant detailing expenditures of funds against their pre-approved budget, providing the Participant with the results of statewide criminal background checks for all persons providing direct care for the Participant and statewide criminal background checks for all appointed representatives.

~~46.3.2~~ 46.03.02 The Fiscal Intermediary also provides the information and skills trainings needed to manage one's own care in the areas of rights and responsibilities of both the Participant and worker; recruiting and hiring workers; developing schedules and outlining duties; supervision and evaluating workers; how to access the services and goods identified in the Individual Service and Spending Plan; managing the monthly budget, assists with completion of necessary paperwork and helps the Participant ensure that his/her rights and safety are protected.

46.04 The Fiscal Intermediary is responsible to complete a Medicaid Provider Participation Agreement with the Rhode Island Executive Office of Health and Human Services

(“EOHHS”). In addition, the Fiscal Intermediary must complete all provider enrollment forms with the EOHHS Fiscal Agent, on the forms and in the format specified by EOHHS.

46.05 The Fiscal Intermediary shall meet with any individual requesting information regarding how to develop and administer his/her ISP and shall provide, at a minimum, the following information:

- a) The individual's role, responsibilities, and rights in contracting with the Fiscal Intermediary.
- b) The need for a Bureau of Criminal Investigation Check (BCI) on any person who has been identified on the Application as assisting the individual to administer his/her ISP. The individual may not allow any person to assist him/her to administer the ISP, or employ any person who has a criminal record of child or client abuse, a felony involving physical violence, or a conviction for fraud, burglary, or embezzlement.
- c) The Fiscal Intermediary shall inform the individual of any training requirements of direct support professional and any other training opportunities that are available for the individual and the direct support professionals.
- d) Unallowable Costs as determined by Medicaid and the Department which are included in the Department's Technical Bulletins.
- e) The Medicaid Cost of Care requirements.
- f) Department reporting requirements.
- g) Forms that the individual will be expected to sign and an explanation of each form.
- h) The services that the Fiscal Intermediary will provide.
- i) The resources available to the individual in the event that the individual wishes to file a complaint.

46.06 If an individual chooses to administer his/her ISP using the Fiscal Intermediary, a contract shall be signed between the individual and the Fiscal Intermediary outlining the parties' respective responsibilities and the monthly fee to be paid to the Fiscal Intermediary.

46.07 In addition to the ISP, the individual must submit a budget to the Department that includes the types of services that will be purchased, the hourly or per unit cost, the time period of the service and the quarterly cost. The budget shall include the cost of the Fiscal Intermediary's services.

46.08 The Fiscal Intermediary shall submit electronic billing for actual costs for services approved in the ISP to the EOHHS Fiscal Agent.

46.09 The Fiscal Intermediary must establish an accounting and information system which records the receipt of individuals' funds from the Department, maintains individuals' accounts, and manages and tracks the receipt and disbursement of funds. This accounting system shall be maintained in accordance with Generally Accepted Accounting Principles. The Fiscal Intermediary shall maintain financial, program, individuals' and support service professionals' files and all required documentation for a period of not less than seven (7) years.

46.10 The Fiscal Intermediary shall complete the following:

- 46.10.01 Prepare the Individual's Start-Up Packet and distribute it to the individual. This packet will include the following, updated as appropriate as forms are changed, and shall include any new forms that will be required:
- a) IRS Form SS-4; Application for Employer Identification Number
 - b) IRS Form 2678; Employer Appointment of Agent
 - c) IRS Form 8821; Tax Authorization
 - d) Any State required forms, (i.e. Workers Compensation)
 - e) Instructions regarding the process for completing and submitting the required forms to the Fiscal Intermediary for filing
 - f) Any rules and regulations governing employment
- 46.10.02 Obtain Federal and State Approval to be the Fiscal Intermediary for Individuals
- a) File for a separate Federal Employer Identification Number (FEIN) for each individual for the purpose of withholding, filing and depositing individual's Federal employment taxes and insurance using the IRS Form SS-4: *Application for Employee Identification* and maintain a copy in the client's file.
 - b) File a completed and signed IRS Form 2678: *Employer Appointment of Agent* along with a letter requesting approval to be the individual's employer agent in accordance with IRS Rev. Proc. 70-6 for each individual and maintain a copy in each individual's file. The Fiscal Intermediary shall retain a copy of the IRS approval notice in the individual's file. The Fiscal Intermediary may submit a number of individual employers' IRS Forms 2678 under the same approval request letter, as long as the letter references each individual employer.
 - c) File a completed and signed IRS Form 8821, Tax Authorization for each individual and maintain a copy of the form in each individual's file.
 - d) Complete a business application and registration for the State of Rhode Island, Workers Compensation, for the applicable number of employees.
 - e) Complete and file any other appropriate state forms for an individual to be recognized as an employer for income tax, employment tax, workers compensation, and unemployment insurance.
- 46.10.03 Notify the employer of the responsibilities of the Fiscal Intermediary and delineate the responsibilities of the individual as an employer.
- 46.10.04 Provide a form for the employer to document training of potential employees related to the work that will be done as a direct support professional. All mandatory training will be tracked and documented by the Fiscal Intermediary.

46.10.05 Provide the employer with a list of non-reimbursable items.

46.10.06 Prepare an Employee Packet and distribute it to the individual that includes, but is not limited to:

- a) Employment Application
- b) Emergency Notification Form
- c) Statement of Confidentiality
- d) The Immigration and Naturalization Service (INS) Form I-9; *Employment Eligibility Verification Form*
- e) IRS Form W-4; *Employee's Withholding Allowance Certificate*
- f) IRS Notice 797; *Possible Federal Tax Refund Due to the Earned Income Credit (EIC)*, if applicable
- g) IRS Form W-5; *Earned Income Credit Advanced Payment Certificate*, if applicable
- h) Timesheet that the direct support professional is expected to complete on a weekly basis
- i) Bureau of Criminal Investigation Disqualifying Information
- j) Information regarding the IRS rules for the treatment of employment taxes for certain family members
- k) Instructions on how and when each form (including the timesheet) should be completed by the individual and/or the direct service worker and the copies of forms that the individual should retain for their records

46.10.07 Payment of Direct Support Professionals

- a) The Fiscal Intermediary shall ensure that no person shall be hired by an individual prior to the completion of a Bureau of Criminal Identification check; prior to the verification of all needed licenses, including a driver's license, proof of insurance, and proof of vehicle inspection certificate.
- b) The Fiscal intermediary shall document that employment and reference checks were completed by the individual for potential employees. Said documentation shall include, but not be limited to: the name of the person called for a reference, the telephone number, the date called, the company name, and the reference provided.
- c) The Fiscal Intermediary shall obtain assurances from the individual that any non-related person or agency providing supports is not named as a beneficiary on the life insurance policy(ies) of the individual with developmental disabilities.
- d) The Fiscal Intermediary shall maintain a record of any formal connections an employee or potential employee has with any entity(ies) providing services to the individual with developmental disabilities. If there is a formal relationship (i.e. board member or

an employee of an agency providing support to the individual with developmental disabilities), then this relationship should be stated in writing by the potential employee at the time of the interview, or when such relationship begins (subsequent to employment). In addition, the Fiscal Intermediary shall obtain from the individual notice of any family relationship with any potential employee to be hired by the individual prior to the actual hiring.

- e) Develop and implement a timesheet for direct support professionals.
- f) Distribute, collect, and process direct support professionals' timesheets based upon an agreed-upon time period (i.e. weekly, bi-weekly, semi-monthly, monthly).
- g) Ensure that the individuals' direct support professionals are paid hourly rates and overtime pay, when applicable, in accordance with Federal and State Department of Labor FLSA rules and regulations.
- h) Compute, withhold, file and deposit federal and state income tax, if requested by the individual's direct support professional and agreed to by individual employers in compliance with IRS rules.
- i) Compute, withhold, and deposit FICA and FUTA taxes using the IRS Form 940; Employer's Annual Federal Unemployment (FUTA) Tax Return and IRS Form 941; Employer's Quarterly Federal Tax Return (filing in the aggregate under the Fiscal Intermediaries separate FEIN) in accordance with IRS Notice 95-18. Compute, withhold, and deposit any state taxes and unemployment insurance taxes in accordance with State policies and procedures,
- j) Ensure that FICA and FUTA withholdings are done appropriately in accordance with IRS rules and regulations when family members are direct support professionals.
- k) Prepare and distribute payroll checks for direct support professionals in accordance with the agreed upon time frame with the individual employer. The payroll checks shall include a pay stub that reports the hours worked, gross wages, withholdings by type, and net salary for the current period and year-to-date. The payroll check will be sent to the individual employer or the direct support professional, as agreed to by the individual and the Fiscal Intermediary. The Fiscal Intermediary shall offer direct support professionals the option of having their paychecks directly deposited in their bank.
- l) Inform direct support professionals of the availability of receiving advanced Federal Earned Income Credit (EIC) payments and process advanced payments when applicable (i.e. include IRS

Notice 797 in the Employee Start-up Packet).

- m) File and distribute IRS Forms W-2 and Forms W-3 on behalf of individuals for each of their direct support professionals who have earned the cash wages thresholds for employment taxes (FICA and possibly FUTA) and/or had Federal and State income taxes withheld in the calendar year per the IRS rules/instructions for employer agents. Ensure that these forms are completed in accordance with IRS rules for agents.
- n) Establish and implement a process for identifying, computing and issuing refunds to direct support professionals (for the employee contribution) and the individual's budget (for the employer contribution) of any over collection of Federal employment taxes (FICA and/or FUTA) for direct support professionals who do not earn the Federal cash wage threshold amounts from a single employer during the calendar year.
- o) Process all judgments, garnishments, tax levies, or any related holds on an employee's funds as may be required by State or Federal laws.

46.10.08 The Fiscal Intermediary shall comply with all Federal and State income and employment taxes, statutory benefits, and labor laws related to the employment of their direct support professionals. All tasks and responsibilities shall be performed by the Fiscal Intermediary in accordance with all applicable Federal and State laws, rules and/or regulations.

46.10.09 Determine the requirements for workers compensation for household employees in the state and facilitate the purchase of worker's compensation insurance for individuals' direct service professionals and process invoices for premium payments. The Fiscal Intermediary shall verify and document that all individual employers have sufficient workers' compensation coverage for all of the direct support professionals that they hire.

46.10.10 Develop and implement a process of documenting any relevant training that the direct support professional has at the time of hire, and any additional training that the direct support professional completes after the date of hire.

46.10.11 The Fiscal Intermediary shall obtain Medicaid Cost of Care information from the individual. Should a Medicaid Cost of Care apply for an individual, the Fiscal Intermediary shall collect the Cost of Care amount from the individual on a monthly basis.

46.10.12 The Fiscal Intermediary shall monitor the expenses reported by the individual to ensure that funds will be available for the full time frame of the quarterly authorization. Should the Fiscal Intermediary find that funds are being expended at an accelerated pace, it will notify the

individual/responsible person of this finding and work with the individual to stay within his/her budgeted resource allocation.

- 46.10.13 The Fiscal Intermediary shall keep an accounting of all services received by the individual, including the dates and types of service.
- 46.10.14 On a quarterly basis, the Fiscal Intermediary shall prepare a report for the individual as to the individual's financial status.
- 46.10.15 The Fiscal Intermediary shall submit to the Department annual audited financial statements, audit findings and any recommendations, including corrective action plans, and any supplemental schedules, as may be required by the Department. The Fiscal Intermediary shall disclose all Related Party Transactions in the notes to the annual audited Financial Statements.
- 46.11 The Fiscal Intermediary shall file a "Supported Employment in a Therapeutic Settings" form with the Medicaid Authority on behalf of the individual. The Fiscal Intermediary shall file forms as necessary based on any changes in the employment situation.
- 46.12 Should the individual subcontract with an organization/business that should be licensed by the Federal or State government, the Fiscal Intermediary shall verify that the organization/business has the necessary license.
- 46.13 The Fiscal Intermediary shall account for any corrected or previously omitted services/encounters reported and process a recoupment to correct payment(s).
- 46.14 The Department shall have the right to request any and all information pertaining to assets, liabilities, revenue, expenditures, records, contracts and any other financial, program, personnel, or administrative data. The Fiscal Intermediary shall submit the information requested to the Department within the time frame specified.
- 46.15 The Department, EOHHS, DHS, CMS and its designated representatives shall have the authority to review all Fiscal Intermediary records, reports of financial data, at any time. The Department, EOHHS, DHS, CMS, or its designated representatives shall have the right at all times to inspect the work performed or being performed under the DDO's license.
- 46.16 The Fiscal Intermediary shall not undertake any work that represents a legally cognizable conflict of interest or is otherwise contrary to State and Federal law or regulation. The Fiscal Intermediary shall fully and completely disclose any situation that may present a legally cognizable conflict of interest at the time of applying for licensure and/or as such situations occur.

Supports Facilitator and Brokerage Services

- ~~46.4~~ 46.18 The Support Facilitator focuses on empowering Participants to define and direct their own personal assistance needs and services. The Supports Facilitator shall guide and support, rather than direct and manage, the Participant through the service planning and delivery process.

46.4.1 46.18.01 The Facilitator shall counsel, facilitate and assist in the development of an Individual Service Plan that includes both paid and unpaid services and supports designed to allow the Participant to live in the home and Participant in the community.

46.4.2 46.18.02 A back-up plan shall also be developed to assure that the needed assistance will be provided in the event that regular services identified in the Individual Service Plan are temporarily unavailable.

46.4.3 46.18.03 Support Brokerage may be members of the Participant's family, provided that the Participant does not live in the family member's residence. Payment shall not be made for services furnished by a legally responsible relative defined as: parent of a minor child, foster parent, tutor, curator, legal guardian; or the Participant's spouse.

Participant Directed Goods and Services

46.5 46.19 Participant Directed Goods or Services shall mean and include the provision of assistance and resources to Participants with developmental disabilities and their families in order to improve and maintain the Participants' opportunities and experiences in living, working, socializing, recreating, and personal growth, safety and health.

46.6 46.20 Participant directed goods or services are services, equipment or supplies, not otherwise provided in these regulations or through the Medicaid State Plan that address an identified need and are in the approved individualized service plan and meet the following requirements:

- a) The item or service would decrease the need for other Medicaid services; and/or promote inclusion in the community;
- b) And/or the item or service would increase the Participant's ability to perform activities of daily living;
- a) And/or increase the Participant's safety in the home environment;
- b) And/or alternative funding sources are not available.

46.7 46.21 Goods and services purchased by the Participant and/or their family shall be focused on improving and maintaining the Participant's opportunities and experiences in living, working, socializing, recreating, and personal growth, safety and health.

46.8 46.22 Items procured by the Participant through Participant Directed Goods and Services shall have full freedom and control in choosing their own provider(s) for each aspect of goods and services. The Participant shall be responsible for hiring and supervising the worker(s) who perform services. A fiscal intermediary may be needed to track and manage payment for services.

46.9 46.23 All procured goods and services shall:

- a) Meet applicable standards of manufacture, design, and installation;
- b) Meet any state or local requirements for licensure or certification;
- c) Not be provided to Participants by parents of minor children or spouses;

- d) Be fully qualified as providers in cases where services are provided by other relatives or friends;
- e) Be clinically appropriate, as documented by a licensed physician or health care provider.
- f) Not be provided to participant by a legally responsible relative defined as a parent of a minor child, foster parent, tutor, curator, legal guardian, or the Participant's spouse.

46.10 ~~46.24~~ Participant directed goods or services shall be purchased from the Participant's self-directed budget through the Fiscal Intermediary when approved as part of the Individualized Service Plan. This shall not include any good/service that would be restrictive to the Participant or is strictly experimental in nature.

46.11 ~~46.25~~ Supports for Participant Direction (Supports Facilitation) shall be provided individually to the Participant

Section 47.0 *Community-Based Support Services*

~~47.1~~ 47.01 Community-based support services and supports provide non residential supports and services to enable Participants to live with their families, in their own homes or in the community with non residential supports and services. Community based supports include, but are not limited to, personal care, homemaking, transportation (excluding transportation to and from Day Program Services), respite, assistive technology and minor home modification. These supports serve to augment the Participant's and/or family's existing support system.

Components

~~47.2~~ 47.02 Community-based support services shall include the availability of direct support and assistance ~~for less than eighteen (18) hours per day up to forty (40) hours per week~~ for Participants, or for the relief of the care giver, in or out of the Participant's residence, to achieve and/or maintain the outcomes of increased independence, productivity, enhanced family functioning, activities of daily living, homemaker and medical supports not otherwise covered by the Participant's health plan, and inclusion in the community, as outlined in his/her ISP.

~~47.3~~ 47.03 Community-based support services shall not supplant non-paid natural supports nor do they replace meaningful day activities and are available to Participants who have been determined to meet clinical necessity and appropriateness requirements, and are at risk due to situational factors.

~~47.4~~ 47.04 Community-based support services may be delivered one-on-one to a Participant or shared. Community-based support services shall be clinically appropriate and clinically necessary, as described in the ISP, for a Participant to live in the Participant's home or the family home.

~~47.5~~ 47.05 The DDO providing community-based support services shall provide, but not be limited to, the following services:

- ~~47.5.1~~ 47.05.01 Expand and develop support options outside the immediate family to individuals such as neighbors, clergy, co-workers (includes non-paid natural supports);
 - ~~47.5.2~~ 47.05.02 Connect the Participant with social services and mental health services;
 - ~~47.5.3~~ 47.05.03 Link the Participant to resources for locating and accessing affordable housing;
 - ~~47.5.4~~ 47.05.04 Facilitate the Participant's access to financial assistance, such as budgeting finances, identifying Social Security benefits, Medicaid/Medicare benefits, other local, state or federal program supports;
 - ~~47.5.5~~ 47.05.05 Facilitate access to legal and/or advocacy services;
 - ~~47.5.6~~ 47.05.06 Support the Participant in maximizing work incentives and other benefit options;
 - ~~47.5.7~~ 47.05.07 Find and facilitate transportation supports;
 - ~~47.5.8~~ 47.05.08 Find resources for job support/education/training, such as supported employment opportunities, finding mentors, and obtaining information on programs offered through higher education institutions;
 - ~~47.5.9~~ 47.05.09 Find assistance on Assistive Technology/Adaptation;
 - ~~47.5.10~~ 47.05.10 Locate and facilitate access to health care, such as home health care, free clinics, and state programs;
 - ~~47.5.11~~ 47.05.11 Help to find daytime supports.
- ~~47.6~~ 47.06 Community-based support services may be provided by professional staff which means and includes the delivery of community-based support services not otherwise covered by the Participant's health plan and provided by a degreed psychologist, a licensed psychiatrist, a licensed physical therapist, a licensed occupational therapist, a licensed speech language pathologist, or a registered nurse.

Natural Supports Training Service

- ~~47.7~~ 47.07 Natural Supports Training Service shall include training and counseling services provided to the family of a Participant to increase capabilities to care for, support and maintain the Participant in the home. Natural supports training may be delivered one-on-one to or on behalf of a Participant or may be shared on behalf of two Participants.

Qualifications

- ~~47.8~~ 47.08 A Natural Supports Trainer shall meet the following minimum requirements:
 - ~~47.8.1~~ 47.08.01 Be eighteen (18) years of age or older.

~~47.8.2~~ 47.08.02 Possess a Bachelor's Degree, preferably in a field of study related to social, health or education sciences, and/or have a minimum of five (5) years experience working with persons with disabilities and their families in a professional or volunteer capacity.

~~47.8.3~~ 47.08.03 Have working knowledge of state and community resources available to Participants and their families and a knowledge of and ability to access these resources.

Assistive Technology

~~47.9~~ 47.09 Assistive technology includes specialized medical equipment and supplies to include (a) devices, controls, or appliances, specified in the individualized service plan, that enable Participants to increase their ability to perform activities of daily living; (b) devices, controls, or appliances that enable the Participant to perceive, control, or communicate with the environment in which they live; including such other durable and non-durable medical equipment not available under the state plan that is necessary to address Participant functional limitations.

47.10 Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the state plan and exclude those items that are not of direct medical or remedial benefit to the Participant. All items shall meet applicable standards of manufacture, design and installation and are subject to prior approval on an individual basis by the Department.

Section 48.0 ***Respite***

~~48.1~~ 48.01 Respite care services may be provided to Participants on a short-term basis in the Participant's home, private place of residence, the private residence of a respite care provider, a licensed community residence, or at a licensed day program.

Components

~~48.2~~ 48.02 Respite care services shall include the follow components:

~~48.2.1~~ 48.02.01 Provides for a Participant who requires support and/or supervision in his/her day-to-day life, in the absence of his/her primary care giver.

~~48.2.2~~ 48.02.02 Maintains the Participant's routine while receiving respite care services in order to attend school, work, or other community activities/outings. Community outings shall be included in the supports provided and shall include school attendance, other school activities, or other activities the Participant would receive if they were not in a center-based respite center.

~~48.2.3~~ 48.02.03 Includes transportation for community outings (included in reimbursement).

Qualifications

~~48.3~~ 48.03 A respite care service provider who:

~~48.3.1~~ 48.03.01 Provides services in a Participant's home, private place of residence, or the private residence of a respite care provider:

- a) Shall be at least eighteen (18) years old, have a high school diploma or GED certification;
- b) Shall complete training and certification as defined by the state to provide the service, that includes criminal, abuse/neglect registry and professional background checks, and completion of a state-approved standardized basic training program;
- c) Should have one year of related experience (preferred);
- d) May be members of the Participant's family, provided the Participant does not live in the family member's residence and the family member meets the same standards described above.