

**TITLE 460 DIVISION OF DISABILITY, AGING, AND
REHABILITATIVE SERVICES**

LSA Document #03-245(F)

DIGEST

Adds 460 IAC 1.1 concerning home and community based services (HCBS) including qualifications for approved providers of home and community based services; the process by which the division of disability, aging, and rehabilitative services (DDARS)/bureau of aging and in-home services (BAIHS) approves providers; the BAIHS process for monitoring and ensuring compliance with provider standards and requirements; the rights of individuals receiving services; protection of individuals receiving services; standards and requirements for approved providers of home and community based services; and definitions for home and community based services. Effective 30 days after filing with the secretary of state.

460 IAC 1.1

SECTION 1. 460 IAC 1.1 IS ADDED TO READ AS FOLLOWS:

ARTICLE 1.1. HOME AND COMMUNITY BASED SERVICES

Rule 1. Purpose

460 IAC 1.1-1-1 Purpose

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. The purpose of this article is to establish standards and requirements for the division of disability, aging, and rehabilitative services (DDARS) approved entities and individuals in the provision of home and community based services (HCBS) to aged individuals and individuals with a disability or severe medical condition. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-1-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 912)*

Rule 2. Applicability

460 IAC 1.1-2-1 Providers of services

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This article applies to the approval and monitoring of DDARS approved providers not licensed by the Indiana state department of health in the provision of home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-2-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 912)*

460 IAC 1.1-2-2 Conflict with Medicaid/Medicare provisions

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. If any provision of this article is deemed to be in conflict with any federal or state statute, regulation, bulletin, or rule that is specifically applicable to the Medicaid/Medicare program, then such other statute, regulation, bulletin, or rule shall supersede that part of this article in which the conflict is found. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-2-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 912)*

Rule 3. Definitions

460 IAC 1.1-3-1 Applicability of definitions

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. The definitions in this rule apply throughout this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 912)*

460 IAC 1.1-3-2 “Abuse” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. “Abuse” includes, but is not limited to, the following:

(1) Intentional or willful infliction of physical, verbal, or demonstrative harm caused by physical touch, oral or written language, or gestures with disparaging or derogatory implications.

(2) Any unnecessary physical or chemical restraints or isolation not found in the care plan.

(3) Punishment with resulting physical harm or pain.

(4) Sexual molestation, rape, sexual misconduct, sexual coercion, and sexual exploitation.

(5) Any harm caused by:

(A) unreasonable confinement;

(B) intimidation;

(C) humiliation;

(D) harassment;

(E) threats of punishment;

(F) deprivation;

(G) neglect; or

(H) physical or financial exploitation.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 912)

460 IAC 1.1-3-3 “Adaptive aids and devices” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. “Adaptive aids and devices” means any controls, appliances, or supplies necessary to enable the waiver recipient to increase his or her ability to function in a home based setting or community based setting, or both, with as much independence as is possible and physical safety under their approved care plan, and listed on the approved Medicaid state plan list, as it exists and may be modified to keep up with technology. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 912)*

460 IAC 1.1-3-4 “Adult foster care services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. “Adult foster care services” means a living arrangement in which an individual lives in the private home of a principal caregiver who is unrelated to the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)*

460 IAC 1.1-3-5 “Adult protective services” or “APS” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-10-1; IC 12-10-3-1; IC 12-10-10

Sec. 5. “Adult protective services” or “APS” means the program established under IC 12-10-3. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)*

460 IAC 1.1-3-6 “Advocate” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-10-1; IC 12-10-10

Sec. 6. (a) “Advocate” means a person who:

- (1) assists an individual with decision making and self-determination; and**
- (2) is chosen by the individual or the individual’s legal representative, if applicable.**

(b) An advocate is not a legal representative unless legally appointed. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)*

460 IAC 1.1-3-7 “Ancillary services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 12-10-17-2

Sec. 7. “Ancillary services” has the meaning set forth in 460 IAC 1-8, including, but not limited to, the following:

- (1) Homemaker type services.**
- (2) Companion type services.**
- (3) Assistance with cognitive tasks.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-7; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)

460 IAC 1.1-3-8 “Applicant” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1-3; IC 12-10-1-4

Affected: IC 12-10-1; IC 12-10-10

Sec. 8. “Applicant” means a natural person or entity who applies to the BAIHS for approval to provide one (1) or more home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-8; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)*

460 IAC 1.1-3-9 “Applied behavior analysis services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 9. “Applied behavior analysis services” means therapy services that are highly intensive individualized instruction and behavior intervention to assist an individual in developing skills with social value. Applied behavior analysis therapy is provided:

- (1) over a two (2) to three (3) year period; and**
- (2) to individuals between two (2) and seven (7) years of age.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-9; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)

460 IAC 1.1-3-10 “Applied behavior therapy analysis support plan” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 10. “Applied behavior therapy analysis support plan” means a plan that addresses the applied behavior analysis support needs of an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-10; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)*

460 IAC 1.1-3-11 “BAIHS” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 11. “BAIHS” is the bureau of aging and in-home services created under IC 12-10-10. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-11; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)*

460 IAC 1.1-3-12 “Basic services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 12-10-17-2

Sec. 12. “Basic services” has the meaning set forth in 460 IAC 1-8, including, but not limited to, the following:

- (1) Assistance with transferring.**
- (2) Health-related services.**
- (3) Bathing and hygiene.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-12; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)

460 IAC 1.1-3-13 “BDDS” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-11-1.1-1; IC 12-11-2.1

Sec. 13. “BDDS” means the bureau of developmental disabilities services as created under IC 12-11-1.1-1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-13; filed Nov 4, 2004, 3:00 p.m.: 28 IR 913)*

460 IAC 1.1-3-14 “BDDS behavior management committee” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-11-1.1-1; IC 12-11-2.1; IC 25-33-1-5.1

Sec. 14. “BDDS behavior management committee” means a group of persons appointed by the director to review the applications of individuals seeking to be approved as level 2 clinicians under 460 IAC 1.1-5-6(c)(1). The committee shall consist of:

- (1) at least two (2) division employees, including a BAIHS staff if related to a medical model waiver; and**
- (2) a licensed psychologist under IC 25-33 who has an endorsement as a health services provider in psychology under IC 25-33-1-5.1 and is not an employee of the division.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-14; filed Nov 4, 2004, 3:00 p.m.: 28 IR 914)

460 IAC 1.1-3-15 “Behavioral support plan” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 15. “Behavioral support plan” means a plan that addresses the behavioral support needs of an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-15; filed Nov 4, 2004, 3:00 p.m.: 28 IR 914)*

460 IAC 1.1-3-16 “Behavioral support services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 16. “Behavioral support services” means training, supervision, or assistance in the following:

- (1) Appropriate expression of emotions and desires.**
- (2) Compliance.**
- (3) Assertiveness.**
- (4) Acquisition of socially appropriate behaviors.**
- (5) The reduction of inappropriate behaviors.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-16; filed Nov 4, 2004, 3:00 p.m.: 28 IR 914)

460 IAC 1.1-3-17 “Care plan” or “plan of care” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 17. “Care plan” or “plan of care” means a plan that is written by the case manager, from the comprehensive assessment defined in section 22 of this rule, to establish supports and strategies intended to accomplish the individual’s long term and short term goals by accommodating the financial and human resources offered, as well as behavioral-related

assistance to the individual through paid provider services or volunteer services, or both, as designed and agreed upon by the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-17; filed Nov 4, 2004, 3:00 p.m.: 28 IR 914)*

460 IAC 1.1-3-18 “Case management services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1

Affected: IC 12-10-1; IC 12-10-10

Sec. 18. “Case management services” means services found in 460 IAC 1.1-19 that enable an individual to receive a full range of appropriate services in a planned, coordinated, efficient, and effective manner, including, but not limited to, an appropriate, complete, accurate, and comprehensive assessment. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-18; filed Nov 4, 2004, 3:00 p.m.: 28 IR 914)*

460 IAC 1.1-3-19 “Child protection services” or “CPS” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-7-2-31.5; IC 12-10-1; IC 12-10-10; IC 31-33

Sec. 19. “Child protection services” or “CPS” refers to child protection services established under IC 31-33. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-19; filed Nov 4, 2004, 3:00 p.m.: 28 IR 914)*

460 IAC 1.1-3-20 “Community habilitation and participation services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 20. “Community habilitation and participation services” means services outside of an individual’s home that support learning and assistance in any of the following areas:

- (1) Self-care.**
- (2) Sensory-motor development.**
- (3) Socialization.**
- (4) Daily living skills.**
- (5) Communication.**
- (6) Community living.**
- (7) Social skills.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-20; filed Nov 4, 2004, 3:00 p.m.: 28 IR 914)

460 IAC 1.1-3-21 “Community transition supports” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 21. “Community transition supports” means supports that are one-time setup expenses for an individual who is transitioning from an institution to supported living setting in the community. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-21; filed Nov 4, 2004, 3:00 p.m.: 28 IR 914)*

460 IAC 1.1-3-22 “Comprehensive assessment” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 22. “Comprehensive assessment” means a process that will provide a complete and accurate assessment done by the case manager for the appropriate services, which includes the individual and anyone the individual chooses to participate and referred to as the individual support team. This process includes, but is not limited to, the following:

- (1) The eligibility screen.**
- (2) Medical information.**
- (3) Health care practitioner notes.**
- (4) Nurses’ notes.**
- (5) The individual’s preferences, goals, and needs.**

These along with other related information will help drive the case manager developed plan of care for the individual established under section 17 of this rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-22; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915)*

460 IAC 1.1-3-23 “Direct care staff” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 23. “Direct care staff” means a person, or an agent or employee of a provider entity, who provides regular hands-on services to an individual while providing any of the following services including, but not limited to:

- (1) Adult day services.**
- (2) Adult foster care services.**
- (3) Community habilitation and participation services.**
- (4) Respite care services.**
- (5) Supported employment services.**
- (6) Transportation services.**
- (7) Homemaker.**
- (8) Attendant care.**
- (9) Any other service listed under 460 IAC 1.1-4-1 or any added in the future.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-23; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915)

460 IAC 1.1-3-24 “Division” or “DDARS” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-9-1-1; IC 12-10-1; IC 12-10-10

Sec. 24. “Division” or “DDARS” means the division of disability, aging, and rehabilitative services created under IC 12-9-1-1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-24; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915)*

460 IAC 1.1-3-25 “Elopement” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 25. “Elopement” means that an individual leaves, without the knowledge, authorization, or consent of the appropriate provider, the level of supervision identified as appropriate for the individual in the individual’s care plan. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-25; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915)*

460 IAC 1.1-3-26 “Endangered adult” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-3-2; IC 12-10-10

Sec. 26. “Endangered adult” has the meaning set forth in IC 12-10-3-2. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-26; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915)*

460 IAC 1.1-3-27 “Entity” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 27. “Entity” means any of the following:

- (1) An association.**
- (2) A corporation.**
- (3) A limited liability company.**
- (4) A governmental entity.**
- (5) A partnership.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-27; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915)

460 IAC 1.1-3-28 “Environmental modification supports” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 28. “Environmental modification supports” means a physical adaptation to an individual’s home to:

(1) ensure the health, welfare, and safety of the individual; or

(2) enable the individual to function with greater independence in the individual’s home;

without which the individual would require institutionalization. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-28; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915*)

460 IAC 1.1-3-29 “Exploitation” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10; IC 35-46-1-12

Sec. 29. “Exploitation” means:

(1) unauthorized use of the personal services, the property, or the identity of an individual; or

(2) any other type of criminal exploitation, including exploitation under IC 35-46-1-12;

for one’s own profit or advantage or for the profit or advantage of another. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-29; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915*)

460 IAC 1.1-3-30 “Facility based sheltered employment services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9

Affected: IC 12-10-1; IC 12-10-10; IC 12-11.1; IC 12-11-2.1

Sec. 30. “Facility based sheltered employment services” means an applicant as follows that shall:

(1) Be an entity.

(2) Be accredited by one (1) of the following organizations:

(A) The commission on accreditation of rehabilitation facilities (CARF) or its successor.

(B) The council on quality and leadership in supports for people with disabilities or its successor.

(C) The joint commission on accreditation of healthcare organizations (JCAHO) or its successor.

(D) An independent national accreditation organization approved by the secretary.

(3) Be a not-for-profit entity.

(4) Have sheltered workshop certification from the wage and hour division of the department of labor.

(5) Certify that, if approved, the entity will provide community based sheltered employment services using only persons who meet the qualifications set out in 460 IAC 1.1-14-5.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-30; filed Nov 4, 2004, 3:00 p.m.: 28 IR 915*)

460 IAC 1.1-3-31 “Family and caregiver training services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 31. “Family and caregiver training services” means the following:

(1) Training and education to instruct a parent, family member, or primary caregiver in the treatment regimens and use of equipment specified in an individual’s care plan.

(2) Training to improve the ability of the parent, family member, or primary caregiver to provide care to or for the individual.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-31; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916*)

460 IAC 1.1-3-32 “Health care coordination services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 32. “Health care coordination services” means medical coordination services to manage the health care needs of an individual. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-32; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916*)

460 IAC 1.1-3-33 “Home health agency” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 16-27

Sec. 33. “Home health agency” means an agency licensed under IC 16-27. *(Division of Disability; Aging, and Rehabilitative Services; 460 IAC 1.1-3-33; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916)*

460 IAC 1.1-3-34 “Hospital” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 16-21-2

Sec. 34. “Hospital” means a hospital licensed under IC 16-21-2. *(Division of Disability; Aging, and Rehabilitative Services; 460 IAC 1.1-3-34; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916)*

460 IAC 1.1-3-35 “Individual” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-10

Affected: IC 12-10-1

Sec. 35. “Individual” means an individual who has been determined eligible for services by a BAIHS waiver specialist or BAIHS designee under 42 CFR 441.302. If the term is used in the context indicating that the individual is to receive information, the term also includes the individual’s legal representative. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-35; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916)*

460 IAC 1.1-3-36 “Individual support team” defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-1

Affected: IC 12-10-10-1

Sec. 36. “Individual support team” means the individual, any provider of service, the case manager, and anyone the individual chooses to participate in the comprehensive assessment process referred to in section 22 of this rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-36; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916)*

460 IAC 1.1-3-37 “Legal representative” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 12-10-13-3.3

Sec. 37. “Legal representative” has the meaning set forth in IC 12-10-13-3.3. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-37; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916)*

460 IAC 1.1-3-38 “Neglect” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 35-46-1-4

Sec. 38. “Neglect” means failure to provide:

- (1) supervision;**
- (2) training;**
- (3) appropriate care;**
- (4) food;**
- (5) medical care; or**
- (6) medical supervision;**

to an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-38; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916)*

460 IAC 1.1-3-39 “Nutritional counseling services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 39. “Nutritional counseling services” means services provided under this article by a licensed dietician or a health care practitioner under the scope of his or her duties. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-39; filed Nov 4, 2004, 3:00 p.m.: 28 IR 916)*

460 IAC 1.1-3-40 “Occupational therapy services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 40. “Occupational therapy services” means services provided under this article by a certified occupational therapist or certified occupational therapy assistant. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-40; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)*

460 IAC 1.1-3-41 “Personal emergency response system supports” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 41. “Personal emergency response system supports” means an electronic communication device that allows an individual to communicate the need for immediate assistance in case of an emergency. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-41; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)*

460 IAC 1.1-3-42 “Physical therapy services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 42. “Physical therapy services” means services provided under this article by a licensed physical therapist or licensed physical therapist assistant. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-42; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)*

460 IAC 1.1-3-43 “Prevocational services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 43. “Prevocational services” means services aimed at preparing an individual for paid or unpaid employment by teaching such concepts as:

- (1) compliance;**
- (2) attendance;**
- (3) task completion;**
- (4) problem solving; and**
- (5) safety.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-43; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)

460 IAC 1.1-3-44 “Provider” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 44. “Provider” means a person or entity approved by the DDARS or its designee to provide the individual with agreed upon services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-44; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)*

460 IAC 1.1-3-45 “Psychological therapy services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-33-1-5.1

Sec. 45. “Psychological therapy services” means services provided under this article by a licensed psychologist with an endorsement as:

- (1) a health service provider in psychology under IC 25-33-1-5.1(c);
- (2) a clinical nurse specialist;
- (3) an applied health specialist in psychology;
- (4) a licensed marriage and family therapist;
- (5) a licensed clinical social worker; or
- (6) a licensed mental health counselor.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-45; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)

460 IAC 1.1-3-46 “Recreational therapy services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 46. “Recreational therapy services” means services provided under this article and consisting of a medically-approved recreational program to restore, remediate, or rehabilitate an individual in order to do the following:

- (1) Improve the individual’s functioning and independence.
- (2) Reduce or eliminate the effects of an individual’s disability.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-46; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)

460 IAC 1.1-3-47 “Reportable unusual occurrence” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 47. “Reportable unusual occurrence” refers to unusual occurrences described in 460 IAC 1.1-9-5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-47; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)*

460 IAC 1.1-3-48 “Respite care services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 48. “Respite care services” means services provided to individuals unable to care for themselves that are furnished on a temporary, intermittent, short term basis because of the absence or need for relief of an unpaid caregiver. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-48; filed Nov 4, 2004, 3:00 p.m.: 28 IR 917)*

460 IAC 1.1-3-49 “Secretary” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-8-1-2; IC 12-10-1; IC 12-10-10

Sec. 49. “Secretary” means the secretary of family and social services appointed under IC 12-8-1-2. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-49; filed Nov 4, 2004, 3:00 p.m.: 28 IR 918)*

460 IAC 1.1-3-50 “Specialized medical equipment and supplies supports” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 50. (a) “Specialized medical equipment and supplies supports” means devices, controls, or appliances that:

- (1) enable an individual to increase the individual’s abilities to:

- (A) perform activities of daily living; or
- (B) perceive or control the environment; or

- (2) enhance an individual’s ability to communicate.

(b) The term includes the following:

- (1) Communication devices.
- (2) Interpreter services.
- (3) Items necessary for life support.
- (4) Ancillary supplies and equipment necessary for the proper functioning of such items.

(5) Durable and nondurable medical equipment.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-50; filed Nov 4, 2004, 3:00 p.m.: 28 IR 918)

460 IAC 1.1-3-51 “Speech and language therapy services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 51. “Speech and language therapy services” means services provided by a licensed speech therapist under this article.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-51; filed Nov 4, 2004, 3:00 p.m.: 28 IR 918)

460 IAC 1.1-3-52 “Supported employment services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 52. “Supported employment services” means services that support and enable an individual to secure and maintain paid employment if the individual is paid at or above the federal minimum wage. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-52; filed Nov 4, 2004, 3:00 p.m.: 28 IR 918)*

460 IAC 1.1-3-53 “Transportation services” defined

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 53. “Transportation services” means services for the transportation of an individual in a vehicle by a provider approved under this article to provide transportation services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-3-53; filed Nov 4, 2004, 3:00 p.m.: 28 IR 918)*

Rule 4. Types of Home and Community Based Services

460 IAC 1.1-4-1 Types of home and community based services

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 16-27-1-0.5; IC 25-23-1-1.2

Sec. 1. (a) Home and community based services include, but are not limited to, the following:

(1) Adaptive aids and devices, which are controls, appliances, or supplies determined necessary to enable the recipient to increase his or her ability to function in a home and community based setting with independence and physical safety. These services are necessary to prevent or delay institutionalization as defined in the plan of care.

(2) Adult day services, which are community based group programs designed to meet the needs of adults with impairments through individual plans of care. These structured, comprehensive, and nonresidential programs provide the following:

(A) Health, social, recreational, and therapeutic activities.

(B) Supervision.

(C) Support services.

(D) Personal care.

A minimum of three (3) hours to a maximum of twelve (12) hours shall be allowable. The three (3) levels of adult day services are basic, enhanced, and intensive.

(3) Attendant care services, which primarily involve providing hands-on assistance consistent with the Medicaid waiver program and IC 16-27-1-0.5. For purposes of this section, “hands-on” means the provision of physical assistance with services to an impaired individual, which the individual could perform if not impaired, to enable the individual to stay at home in the community instead of in an institution.

(4) Behavior management/behavior program and counseling, which includes training, supervision, or assistance in the following:

(A) Appropriate expression of emotions and desires.

(B) Compliance.

(C) Assertiveness.

(D) Acquisition of socially appropriate behaviors.

(E) The reduction of inappropriate behaviors.

(5) Case management, which is a comprehensive service comprised of a variety of specific tasks and activities designed to coordinate and integrate all other services required in the individual's care plan. Case management is required in conjunction with the provision of any home and community based service.

(6) Community transition services, which include reasonable, one-time setup expenses for individuals who make the transition from an institution to their own home in the community and will not be reimbursable on any subsequent move.

(7) Congregate care, which consists of services that are designed to ensure the health, safety, and welfare of an individual in order for the individual to live successfully in his or her home. Personalized congregate care is provided to the individual who resides in his or her own living unit or apartment, which is part of a subsidized housing community. The frequency, duration, and scope of these services are identified in the individual's plan of care.

(8) Day habilitation services, which shall focus on enabling the individual to attain or maintain his or her maximum functional level and shall be coordinated with any physical, occupational, or speech therapies listed in the plan of care. In addition, day habilitation service may serve to reinforce skills or lessons taught in school, therapy, or other settings. Services shall normally be furnished four (4) or more hours per day on a regularly scheduled basis for one (1) or more days per week unless provided as an adjunct to other day activities included in an individual's plan of care.

(9) Environmental accessibility adaptations/environmental modifications, which are those physical adaptations to the home required by the individual's plan of care, that:

(A) are necessary to ensure the health, welfare, and safety of the individual; or

(B) enable the individual to function with greater independence in the home and without which the individual would require institutionalization.

(10) Health care coordination, which includes medical coordination provided by a registered nurse (RN) or licensed practical nurse (LPN) under IC 25-23-1-1.2.

(11) Home-delivered meal, which is an appropriate and nutritionally balanced meal that meets one-third ($\frac{1}{3}$) of the current recommended dietary allowance (RDA) delivered to:

(A) the home of an older adult or person with disabilities; or

(B) a congregate meal site.

(12) Homemaker services, which offer direct and practical assistance consisting of household tasks and related activities. Homemaker services assist the individual to remain in a clean, safe, and healthy home environment. Homemaker services are provided when the recipient is unable to meet these needs or when an informal caregiver is unable to meet these needs for the recipient.

(13) Minor home modifications, which are selected internal and external modifications to the home environment, related specifically to the individual's functional limitations, that will assist the individual in remaining in the current living situation. Those physical adaptations to the home, required by the individual's plan of care, that:

(A) are necessary to ensure the health, welfare, and safety of the individual; or

(B) enable the individual to function with greater independence in the home and without which the individual would require institutionalization.

(14) Nutritional (dietary) supplements, which include liquid supplements, such as "Boost" or "Ensure", to maintain an individual's health in order to remain in the community. Supplements should be ordered by a health care practitioner based on one (1) or a combination of the specific life-stage, gender, or lifestyle.

(15) Occupational therapy services, which are services provided under this article by a licensed occupational therapist or licensed occupational therapy assistant.

(16) Personal emergency response system, or PERS, which is a device that enables certain individuals at high risk of institutionalization to secure help in an emergency. The device should be tested on a regular basis to ensure proper working order. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the person's phone and programmed to signal a response center once a "help" button is activated. The response center is staffed by trained professionals, as specified in Appendix B-2 of the Medicaid waiver manual. PERS services are limited to those individuals who live alone, or who are alone for significant parts of the day, and have no regular caregiver for extended periods of time and who would otherwise require extensive routine supervision.

(17) Pest control services, which are designed to prevent, suppress, or eradicate anything that:

(A) competes with humans for food and water;

(B) injures humans;

(C) spreads disease to humans; or

(D) annoys humans;

and is causing or is expected to cause more harm than is reasonable to accept.

(18) Physical therapy services, which are services provided under this article by a licensed physical therapist or a licensed physical therapy assistant.

(19) Residential habilitation, which is assistance with acquisition, retention, or improvement in skills related to activities of daily living, such as:

- (A) personal grooming and cleanliness;
- (B) bed making and household chores;
- (C) eating and the preparation of food; and
- (D) the social and adaptive skills;

necessary to enable the individual to reside in a noninstitutional setting.

(20) Respite care services, which are those services provided in the absence of the usual unpaid caregiver, provided in accordance with the plan of care.

(21) Specialized medical equipment and supplies, to include devices, controls, or appliances, specified in the plan of care, that enable individuals to increase their abilities to perform activities of daily living or to perceive, control, or communicate with the environment in which they live. This service also includes items necessary for life support, ancillary supplies, and equipment necessary to the proper functioning of such items and durable and nondurable medical equipment not available under the Medicaid state plan. Items reimbursed with waiver funds shall be in addition to any medical equipment and supplies furnished under the state plan and shall exclude those items that are not of direct medical or remedial benefit to the individual.

(22) Speech, hearing, and language services, which are self-explanatory.

(23) Supported employment services, which consist of paid employment for persons for whom competitive employment at or above the minimum wage is unlikely and who, because of their disabilities, need intensive ongoing support to perform in a work setting.

(24) Transportation, which involves transporting the individual to and from community services, activities, and resources specified by the plan of care. This service is offered in addition to medical transportation required under 42 CFR 431.53 and transportation services under the state plan, defined at 42 CFR 440.170(a) (if applicable), and shall not replace them. Whenever possible, family, neighbors, friends, or community agencies that can provide this service without charge will be utilized.

(b) Descriptions of these services are expanded in the Medicaid waiver manual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-4-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 918)*

Rule 5. Provider Qualifications

460 IAC 1.1-5-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 920)*

460 IAC 1.1-5-2 Adult day services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. To be approved to provide adult day services, an applicant shall be an entity approved by DDARS. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 920)*

460 IAC 1.1-5-3 Adult foster care services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. To be approved to provide adult foster care services, an applicant shall:

(1) be an entity approved by DDARS; and

(2) certify that, if approved, the entity will provide adult foster care services using only persons who meet the qualifications set out in 460 IAC 1.1-14-5.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 920)

460 IAC 1.1-5-4 Applied behavior analysis services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-22.5; IC 25-33-1-5.1

Sec. 4. (a) To be approved to provide applied behavior analysis services as a lead therapist, an applicant shall either be a licensed psychiatrist under IC 25-22.5 or:

(1) be a licensed psychologist under IC 25-33 and have an endorsement as a health service provider in psychology under IC 25-33-1-5.1; and

(2) have:

(A) completed at least one thousand five hundred (1,500) hours of training or supervised experience in the application of applied behavior analysis or an equivalent behavior modification theory for children with a pervasive developmental disorder; and

(B) at least two (2) years of experience as an independent practitioner and as a supervisor of less experienced clinicians.

(b) To be approved to provide applied behavior analysis services as a senior therapist, an applicant shall either:

(1) be a psychotherapist; or

(2) have:

(A) completed at least three thousand (3,000) hours of training or supervised experience in the application of applied behavior analysis or an equivalent behavior modification theory for children with a pervasive developmental disorder; and

(B) at least four hundred (400) hours of training or supervised experience in the use of applied behavior analysis or an equivalent behavior modification program for children with:

(i) an autistic disorder;

(ii) Asperger's disorder; or

(iii) a pervasive developmental disorder;

which may be included in the three thousand (3,000) hour training requirement in clause (A).

(c) To maintain approval as a senior therapist, a senior therapist shall obtain annually at least ten (10) continuing education hours related to applied behavior analysis:

(1) from a category I sponsor as provided in 868 IAC 1.1-15; or

(2) as provided by the DDARS/BDDS applied behavior analysis support curriculum list.

(d) For an entity to be approved to provide applied behavior analysis services, the entity shall certify that, if approved, the entity shall provide:

(1) lead therapist services;

(2) senior therapist services; or

(3) line staff services;

using only persons who meet the qualifications set out in this section. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 920*)

460 IAC 1.1-5-5 Attendant care provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 16-27-1

Sec. 5. To be approved to provide attendant care, an applicant shall be approved by DDARS or its designee to provide home and community based services under this article, including, but not limited to, providers that are:

(1) licensed, home health care agencies under IC 16-27-1;

(2) Medicaid waiver personal attendant care providers;

(3) family members (other than the spouse or the parent or parents of the minor child);

(4) licensed or certified health care professionals; or

(5) approved individual practitioners.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 921*)

460 IAC 1.1-5-6 Behavioral support services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-23.6; IC 25-33-1-5.1

Sec. 6. (a) Until January 1, 2005, to be approved to provide behavioral support services as a level 1 clinician, an applicant shall meet one (1) of the following requirements as found in the definition section for the waiver:

(1) Be a licensed psychologist under IC 25-33 and have an endorsement as a health service provider in psychology under IC 25-33-1-5.1(c).

(2) Have:

(A) at least a master's degree in:

(i) a behavioral science;

(ii) special education; or

(iii) social work; and

(B) evidence of five (5) years of experience in:

(i) working directly with individuals who require behavioral supports, including the devising, implementing, and monitoring of behavioral support plans; and

(ii) the supervision and training of others in the implementation of behavioral support plans.

(b) Effective January 1, 2005, to be approved to provide behavioral support services as a licensed level 1 clinician, an applicant shall:

(1) be a licensed psychologist under IC 25-33; and

(2) have an endorsement as a health service provider in psychology under IC 25-33-1-5.1(c).

(c) To be approved to provide behavioral support services as a level 2 clinician, an applicant shall meet the following requirements:

(1) Either:

(A) have a master's degree in:

(i) clinical psychology, counseling psychology, school psychology, or another applied health service of psychology;

(ii) special education;

(iii) social work; or

(iv) counseling;

(B) be a licensed marriage and family therapist licensed under IC 25-23.6;

(C) be a licensed clinical social worker under IC 25-23.6;

(D) be a licensed mental health counselor under IC 25-23.6;

(E) have a master's degree in a human services field and be able to demonstrate to the BDDS behavior management committee that the individual has either course work in or five (5) years of experience in devising, implementing, and monitoring behavior support plans; or

(F) meet all of the following requirements:

(i) Have a bachelor's degree.

(ii) Be employed as a behavioral consultant on or before September 30, 2001, by a provider of behavioral support services approved under this article.

(iii) Be working on a master's degree in psychology, special education, or social work.

(iv) By December 31, 2006, complete a master's degree in psychology, special education, or social work.

(2) Be supervised by a level 1 clinician.

(d) To maintain approval as a behavioral support services provider, a behavioral support services provider shall:

(1) obtain annually at least ten (10) continuing education hours related to the practice of behavioral support:

(A) from a category I sponsor as provided in 868 IAC 1.1-15; or

(B) as provided by the behavioral support curriculum list; or

(2) be enrolled in:

(A) a master's level program in psychology, special education, or social work; or

(B) a doctoral program in psychology.

(e) For an entity to be approved to provide behavioral support services, the entity shall certify that, if approved, the entity shall provide level 1 clinician behavioral support services or level 2 clinician behavioral support services using only persons who meet the qualifications set out in this section.

(f) The provisions in subsection (c)(1)(B) expire on December 31, 2006. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 921)*

460 IAC 1.1-5-7 Case management services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-23-1

Sec. 7. (a) To provide case management services, an applicant shall be approved by DDARS or its designee.

(b) Minimum qualifications to be approved include:

(1) a bachelor's degree in:

- (A) social work;**
- (B) psychology;**
- (C) sociology;**
- (D) counseling;**
- (E) gerontology;**
- (F) nursing;**

(2) a registered nurse with one (1) year experience in human services;

(3) a bachelor's degree in any field with a minimum of two (2) years full-time, direct experience; or

(4) a master's degree in a related field may substitute for the required experience.

(c) Under the medically fragile children's waiver, the provision of case management services requires either:

(1) a licensed practical nurse; or

(2) a registered nurse.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-7; filed Nov 4, 2004, 3:00 p.m.: 28 IR 922)

460 IAC 1.1-5-8 Community based sheltered employment services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 8. To be approved to provide community based sheltered employment services, an applicant shall meet the following requirements:

(1) Be an entity.

(2) Be accredited by one (1) of the following organizations:

(A) The commission on accreditation of rehabilitation facilities (CARF) or its successor.

(B) The council on quality and leadership in supports for people with disabilities or its successor.

(C) The joint commission on accreditation of healthcare organizations (JCAHO) or its successor.

(D) An independent national accreditation organization approved by the secretary.

(3) Be a not-for-profit entity.

(4) Certify that, if approved, the entity will provide community based sheltered employment services using only persons who meet the qualifications set out in 460 IAC 1.1-14-5.

(5) Not be a community health center.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-8; filed Nov 4, 2004, 3:00 p.m.: 28 IR 922)

460 IAC 1.1-5-9 Community habilitation and participation services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 9. (a) To be approved to provide community habilitation and participation services, an applicant shall meet the requirements for direct care staff set out in 460 IAC 1.1-14-5.

(b) For an entity to provide community habilitation and participation services, the entity shall be approved by DDARS or its designee. If approved, the entity will provide community habilitation and support services using only persons who meet the qualifications set out in 460 IAC 1.1-14-5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-9; filed Nov 4, 2004, 3:00 p.m.: 28 IR 922)*

460 IAC 1.1-5-10 Crisis assistance services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 10. To be approved to provide crisis assistance services, an applicant shall be approved to provide behavioral support services by DDARS or its designee. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-10; filed Nov 4, 2004, 3:00 p.m.: 28 IR 922)*

460 IAC 1.1-5-11 Environmental modification supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 11. To provide environmental modification supports, an applicant shall:

- (1) be approved by DDARS or its designee;
- (2) be licensed, certified, registered, or otherwise properly qualified under federal, state, or local laws applicable to the particular service that the applicant desires to perform; and
- (3) certify that, if approved, the applicant will perform the services in compliance with federal, state, or local laws applicable to the type of modification being made.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-11; filed Nov 4, 2004, 3:00 p.m.: 28 IR 922)

460 IAC 1.1-5-12 Facility based sheltered employment services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 12. To be approved to provide facility based sheltered employment services, an applicant shall meet the following requirements:

- (1) Be an entity.
- (2) Be accredited by one (1) of the following organizations:
 - (A) The commission on accreditation of rehabilitation facilities (CARF) or its successor.
 - (B) The council on quality and leadership in supports for people with disabilities or its successor.
 - (C) The joint commission on accreditation of healthcare organizations (JCAHO) or its successor.
 - (D) An independent national accreditation organization approved by the secretary.
- (3) Be a not-for-profit entity.
- (4) Have sheltered workshop certification from the wage and hour division of the department of labor.
- (5) Certify that, if approved, the entity will provide community based sheltered employment services using only persons who meet the qualifications set out in 460 IAC 1.1-14-5.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-12; filed Nov 4, 2004, 3:00 p.m.: 28 IR 922)

460 IAC 1.1-5-13 Family and caregiver training services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 13. To provide family and caregiver training services, an applicant shall be approved by DDARS or its designee. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-13; filed Nov 4, 2004, 3:00 p.m.: 28 IR 923)*

460 IAC 1.1-5-14 Health care coordination services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-23-1-1.2

Sec. 14. (a) To be approved to provide health care coordination services, an applicant shall be either a registered nurse or a licensed practical nurse under IC 25-23-1-1.2.

(b) For an entity to be approved to provide health care coordination services, the entity shall certify that, if approved, the entity will provide health care coordination services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-14; filed Nov 4, 2004, 3:00 p.m.: 28 IR 923)*

460 IAC 1.1-5-15 Homemaker provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 15. To be approved to provide homemaker services, an applicant shall be otherwise approved by DDARS or its designee to provide home and community based services under section 5 of this rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-15; filed Nov 4, 2004, 3:00 p.m.: 28 IR 923)*

460 IAC 1.1-5-16 Nutritional counseling services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-14.5

Sec. 16. (a) To be approved to provide nutritional counseling services, an applicant shall be:

- (1) a dietitian certified under IC 25-14.5; or
- (2) a licensed health care practitioner under the scope of their duties.

(b) For an entity to be approved to provide nutritional counseling services, the entity shall certify that, if approved, the entity will provide nutritional counseling services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-16; filed Nov 4, 2004, 3:00 p.m.: 28 IR 923)*

460 IAC 1.1-5-17 Occupational therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-23.5-1-5.5; IC 25-23.5-1-6; IC 25-23.5-5

Sec. 17. (a) To be approved to provide occupational therapy services as an occupational therapist, an applicant shall be an occupational therapist certified under IC 25-23.5.

(b) To be approved to provide occupational therapy services as an occupational therapy assistant, an applicant shall be certified and comply with IC 25-23.5-1-6.

(c) To be approved to provide occupational therapy services as an occupational therapy aide, an applicant shall meet the requirements of IC 25-23.5-1-5.5 and 844 IAC 10-6.

(d) For an entity to be approved to provide occupational therapy services, the entity shall certify that, if approved, the entity will provide occupational therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-17; filed Nov 4, 2004, 3:00 p.m.: 28 IR 923)*

460 IAC 1.1-5-18 Personal emergency response system supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 18. To be approved to provide personal emergency response system supports, an applicant shall:

- (1) be licensed, certified, registered, or otherwise properly qualified under federal, state, or local laws applicable to the particular service that the applicant desires to perform; and
- (2) certify that, if approved, the applicant will perform the services in compliance with federal, state, or local laws applicable to a personal emergency response system.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-18; filed Nov 4, 2004, 3:00 p.m.: 28 IR 923)

460 IAC 1.1-5-19 Physical therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-27-1

Sec. 19. (a) To be approved to provide physical therapy services as a physical therapist, an applicant shall be a physical therapist licensed under IC 25-27-1.

(b) To be approved to provide physical therapy services as a physical therapist assistant, an applicant shall be certified and follow all regulations and guidelines under IC 25-27-1.

(c) For an entity to be approved to provide physical therapy services, the entity shall certify that, if approved, the entity will provide physical therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-19; filed Nov 4, 2004, 3:00 p.m.: 28 IR 924)*

460 IAC 1.1-5-20 Prevocational services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 20. (a) To be approved to provide prevocational services, an applicant shall meet the requirements for direct care staff set out in 460 IAC 1.1-14-5.

(b) For an entity to be approved to provide prevocational services, the entity shall certify that, if approved, the entity will provide prevocational services using only persons who meet the qualification set out in 460 IAC 1.1-14-5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-20; filed Nov 4, 2004, 3:00 p.m.: 28 IR 924)*

460 IAC 1.1-5-21 Psychological therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-23.6; IC 25-33-1-5.1

Sec. 21. (a) To be approved to provide psychological therapy services, an applicant shall be one (1) of the following:

(1) A psychologist licensed under IC 25-33-1 and have an endorsement as a health service provider in psychology under IC 25-33-1-5.1.

(2) A marriage and family therapist licensed under IC 25-23.6-8.

(3) A clinical social worker licensed under IC 25-23.6-5.

(4) A mental health counselor licensed under IC 25-23.6-8.5.

(b) For an entity to be approved to provide psychological therapy services, the entity shall certify that, if approved, the entity will provide psychological therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-21; filed Nov 4, 2004, 3:00 p.m.: 28 IR 924)*

460 IAC 1.1-5-22 Recreational therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 22. (a) To be approved to provide recreational therapy services, an applicant shall be certified by the national council for therapeutic recreation certification.

(b) To be approved to provide recreational therapy services, an entity shall certify that, if approved, the entity will provide recreational therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-22; filed Nov 4, 2004, 3:00 p.m.: 28 IR 924)*

460 IAC 1.1-5-23 Respite care services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 23. (a) To be approved to provide respite care services, an applicant shall meet the requirements for direct care staff set out in 460 IAC 1.1-14-5 and an applicant shall be otherwise approved by DDARS or its designee to provide home and community based services under section 5 of this rule.

(b) For an entity to be approved to provide respite care services, the entity shall meet both of the following requirements:

(1) Be one (1) of the following types of entities:

(A) A licensed home health agency.

(B) An approved DDARS provider.

(C) An approved entity providing residential services to unrelated individuals.

(D) A licensed nursing facility.

(2) Certify that, if approved, the entity will provide respite care services using only persons who meet the direct care staff qualifications set out in 460 IAC 1.1-14-5.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-23; filed Nov 4, 2004, 3:00 p.m.: 28 IR 924)

460 IAC 1.1-5-24 Specialized medical equipment and supplies supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 24. To be approved to provide specialized medical equipment and supplies supports, an applicant shall:

(1) be licensed, certified, registered, or otherwise properly qualified under federal, state, or local laws applicable to the particular service that the applicant desires to perform; and

(2) certify that, if approved, the applicant will perform the services in compliance with federal, state, or local laws applicable to the type of equipment and supplies being provided.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-24; filed Nov 4, 2004, 3:00 p.m.: 28 IR 924)

460 IAC 1.1-5-25 Speech-language therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 25-35.6-1-2

Sec. 25. (a) To be approved to provide speech-language therapy services as a speech-language pathologist, an applicant shall be a speech-language pathologist licensed under IC 25-35.6.

(b) To be approved to provide speech-language therapy services as a speech-language pathology aide, an applicant shall meet and follow the definition in IC 25-35.6-1-2(g) and be registered under 880 IAC 1-2.1.

(c) For an entity to be approved to provide speech-language therapy services, the entity shall certify that, if approved, the entity will provide speech-language therapy services using only persons who meet the qualifications set out in this section.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-25; filed Nov 4, 2004, 3:00 p.m.: 28 IR 925)

460 IAC 1.1-5-26 Supported employment services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 26. To be approved to provide supported employment services, an applicant shall meet the following requirements:

(1) Be accredited by, or provide proof of an application to seek accreditation from, one (1) of the following organizations:

(A) The commission on accreditation of rehabilitation facilities (CARF) or its successor.

(B) The council on quality and leadership in supports for people with disabilities or its successor.

(C) The joint commission on accreditation of healthcare organizations (JCAHO) or its successor.

(D) The national commission on quality assurance or its successor.

(E) An independent national accreditation organization approved by the secretary.

(2) Certify that, if approved, the applicant will provide services using only persons who meet the qualifications set out in 460 IAC 1.1-14-5.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-26; filed Nov 4, 2004, 3:00 p.m.: 28 IR 925)

460 IAC 1.1-5-27 Transportation services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 12-17.2-2-4

Sec. 27. (a) To provide transportation services, an applicant shall be an entity approved by DDARS.

(b) To be approved to provide transportation services, an applicant shall certify that, if approved, transportation services will be provided using only persons having a valid:

- (1) operator's license;
- (2) chauffeur's license;
- (3) public passenger chauffeur's license; or
- (4) commercial driver's license;

issued to the person by a bureau of motor vehicles to drive the type of motor vehicle for which the license was issued. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-27; filed Nov 4, 2004, 3:00 p.m.: 28 IR 925)*

460 IAC 1.1-5-28 Transportation supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 28. To provide transportation supports, an applicant shall be approved by DDARS. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-5-28; filed Nov 4, 2004, 3:00 p.m.: 28 IR 925)*

Rule 6. Application and Approval Process

460 IAC 1.1-6-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services providers. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-6-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 925)*

460 IAC 1.1-6-2 Initial applications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. To receive initial approval as a home and community based services provider, an applicant shall submit the following for each service for which the applicant is seeking to be an approved provider:

- (1) An application on a form prescribed by DDARS/BAIHS.
- (2) Evidence that the provider meets the qualifications for home and community based services that the provider is seeking to be approved to provide as specified in this article.
- (3) Supporting documents specified on the application form to demonstrate the applicant's programmatic, financial, and managerial ability to provide home and community based services as set out in this article.
- (4) A written and signed statement of assurance that the applicant will comply with the provisions of this article.
- (5) A written and signed statement that the applicant will provide services to an individual as set out in the individual's care plan.
- (6) Upon request, documentation, or provide copies during an on-site visit, as proof of the assurances in subdivisions (1) through (5).

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-6-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 925)

460 IAC 1.1-6-3 Action on application

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 4-21.5; IC 12-10-1; IC 12-10-10

Sec. 3. (a) The BAIHS shall determine whether an applicant meets the requirements under this article upon review of an initial application. The BAIHS shall either:

- (1) approve the applicant for a period not to exceed three (3) years; or
- (2) deny approval to an applicant that does not meet the approval requirements of this article.

(b) If an applicant is seeking to obtain approval as a level 2 clinician under 460 IAC 1.1-5-6(c), DDARS behavior management committee shall review the applicant's credentials.

(c) The BAIHS shall notify an applicant in writing of the BAIHS determination within sixty (60) days of receipt of a completed application.

(d) If an applicant is adversely affected or aggrieved by the BAIHS determination, the applicant may request administrative review of the determination. Such request shall be made in writing and filed with the director of the division within fifteen (15) calendar days after the applicant receives written notice of the BAIHS determination. Administrative review shall be conducted under IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-6-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 926)*

460 IAC 1.1-6-4 Renewal of approval

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 4-21.5; IC 12-10-1; IC 12-10-10

Sec. 4. (a) A provider of home and community based services (HCBS) or supports shall file a written request for renewal of the BAIHS approval at least ninety (90) days prior to expiration of the BAIHS previous approval.

(b) Upon receiving a request for renewal of approved status, the BAIHS shall determine whether a provider continues to meet the requirements of this article, or any amendment to it.

(c) Approved status of a provider shall continue until otherwise notified; renewal shall include verification of the following:

(1) The provider's operations have been surveyed either:

(A) within the preceding fifteen (15) months;

(B) as part of the renewal process; or

(C) they are a licensed entity.

(2) There are no outstanding issues that may seriously endanger the health or safety of an individual receiving services from the provider.

(d) In considering a request for the renewal of approval, the BAIHS shall either:

(1) approve the applicant for a period not to exceed three (3) years; or

(2) deny approval to an applicant that does not meet the approval requirements of this article.

(e) If a provider has complied with subsection (a), the BAIHS shall notify a provider in writing of the BAIHS determination at least thirty (30) days prior to the expiration of the provider's approval under this section.

(f) If a provider has complied with subsection (a) and if the BAIHS does not act upon a provider's request for renewal of approved status before the expiration of the provider's approved status, the provider's approved status shall continue until such time as the BAIHS acts upon the provider's request for renewal of approved status.

(g) If a provider is adversely affected or aggrieved by the BAIHS determination, the provider may request administrative review of the determination. The request shall be made in writing and filed with the director of the division within fifteen (15) calendar days after the provider receives written notice of the determination. Administrative review shall be conducted under IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-6-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 926)*

460 IAC 1.1-6-5 Application to provide additional services

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 5. (a) A provider seeking approval to provide an additional home and community based service shall comply with section 2 of this rule.

(b) Approval to provide additional services shall be granted by the BAIHS only if:

(1) the provider's operations have been reviewed, including review of any surveys, complaints, or summaries of incident reports; and

(2) there are no outstanding issues that may seriously endanger the health or safety of an individual and, if applicable, the provider remains licensed with the Indiana state department of health.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-6-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 926)

Rule 7. Monitoring; Sanctions; Administrative Review

460 IAC 1.1-7-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-7-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 927*)

460 IAC 1.1-7-2 Monitoring; corrective action

Authority: IC 12-8-4-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. (a) The BAIHS or its designee shall monitor compliance with the requirements of this article at the following times:

(1) At least every fifteen (15) months.

(2) Upon receiving a complaint or report alleging a provider's noncompliance with the requirements of this article.

(b) The BAIHS or its designee shall monitor compliance with the requirements of this article through any of the following means:

(1) Requesting and obtaining information from the provider.

(2) Site inspections.

(3) Meeting with an individual or the individual's legal representative as applicable.

(4) Review of provider records and the records of an individual.

(5) Follow-up inspection as is reasonably necessary to determine compliance after the BAIHS has requested a corrective action plan.

(6) The provider will submit to the BAIHS or its designee any requested documentation.

(c) After any site inspection, the BAIHS or its designee shall issue a written report, which shall:

(1) be prepared by the BAIHS or its designee;

(2) document the findings made during monitoring;

(3) identify necessary corrective action;

(4) identify the time period in which a corrective action plan shall be completed by the provider;

(5) identify any documentation needed from the provider to support the provider's completion of the corrective action plan; and

(6) be submitted to the provider.

(d) A provider shall do the following:

(1) Complete a corrective action plan to the reasonable satisfaction of the BAIHS or its designee within the time period identified in the corrective action plan, or within such other time period agreed to by the BAIHS or its designee and the provider.

(2) Notify the BAIHS or its designee upon the completion of a corrective action plan.

(3) Provide the BAIHS or its designee with any requested documentation.

(e) If a person other than an individual receiving services files a complaint, BAIHS or its designee shall notify the person filing the complaint of the following:

(1) The completion of the BAIHS monitoring as a result of the complaint.

(2) The completion of any corrective action by the provider as a result of the BAIHS monitoring of a provider.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-7-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 927*)

460 IAC 1.1-7-3 Effect of noncompliance; notice

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 4-21.5; IC 12-10-1; IC 12-10-10

Sec. 3. (a) If a provider does not comply with the requirements of this article or does not complete a corrective action plan to the reasonable satisfaction of the BAIHS or its designee within the time allowed, the BAIHS shall not authorize either or

both of the following:

- (1) The continuation of services to an individual or individuals by the provider.
- (2) The receipt of services by individuals not already receiving services from the provider.

(b) After an acceptable corrective plan of action has been submitted to the BAIHS, the BAIHS or its designee shall monitor the provider's compliance with the corrective action plan. If the BAIHS determines that the provider has not implemented the corrective action plan, the BAIHS shall not authorize either or both of the following:

- (1) The continuation of services to an individual or individuals by the provider if the services do not comply with this article.
- (2) The receipt of services by individuals not already receiving services from the provider at the time the determination is made that the provider did not submit a corrective action plan to the reasonable satisfaction of the BAIHS or its designee.

(c) The BAIHS or its designee reserves the right to refer issues to the Medicaid fraud unit pursuant to the signed BAIHS provider agreement.

(d) The BAIHS or its designee shall give written notice of the BAIHS action under subsection (a), (b), or (c) to the following:

- (1) The provider.
- (2) The individual receiving service from the provider.
- (3) The individual's legal representative if applicable.

(e) The written notice under subsection (d) shall include the following:

- (1) The requirements of this article with which the provider has not complied.
- (2) The effective date, with at least thirty (30) days notice, of the BAIHS action under subsection (a).
- (3) The need for planning to obtain services that comply with this article for an individual or individuals.
- (4) The provider's right to seek administrative review of the BAIHS action.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-7-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 927)

460 IAC 1.1-7-4 Serious endangerment of individual's health and safety

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 4-21.5; IC 12-10-1; IC 12-10-10; IC 16-28-13

Sec. 4. (a) If a provider's noncompliance with this article seriously endangers the health or safety of an individual such that an emergency exists, as determined by the BAIHS or its designee, the BAIHS may enter an order for any of the following:

- (1) Termination of continued authorization for the provider to serve any individual whose health or safety is being seriously endangered.
- (2) Denial of authorization for the receipt of services by individuals not already receiving services from the provider at the time the BAIHS determines that a provider's noncompliance with this article endangers the health or safety of an individual.
- (3) Termination of continued authorization for the provider to provide any services under this article.
- (4) Referral of the provider to the Indiana state department of health or the Medicaid fraud unit, or both.

(b) Any action taken under subsection (a) shall remain in effect until such time as the BAIHS or its designee determines that the provider's noncompliance with this article is no longer endangering the health and safety of an individual.

(c) The BAIHS shall give written notice of an order under subsection (a) to the following:

- (1) The provider.
- (2) The individual receiving service from the provider.
- (3) The individual's legal representative as applicable.

(d) The written notice under subsection (a) shall include the following:

- (1) The requirements of this article with which the provider has not complied.
- (2) A brief statement of the facts and the law leading to the BAIHS determination that an emergency exists.
- (3) The need to immediately obtain services that comply with this article for an individual or individuals.

(4) The provider's right to seek administrative review of the BAIHS action.

(e) The order issued under subsection (a):

- (1) shall expire on the date the BAIHS or its designee determines that an emergency no longer exists; and**
- (2) is subject to review in ninety (90) days.**

(f) During the pendency of any related proceedings under IC 4-21.5, the BAIHS may renew an emergency order for successive ninety (90) day periods. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-7-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 928)*

460 IAC 1.1-7-5 Revocation of approval

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 5. The BAIHS shall revoke the approval of a provider and may request sanctions up to and including referral to the Medicaid fraud unit under this rule for the following reasons:

- (1) The provider's repeated noncompliance with this article.**
- (2) The provider's continued noncompliance with this article.**
- (3) The provider's noncompliance with this article that seriously endangers the health or safety of an individual.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-7-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 928)

460 IAC 1.1-7-6 Administrative review

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 4-21.5; IC 12-10-1; IC 12-10-10

Sec. 6. (a) To qualify for administrative review of an action or determination of the BAIHS under this rule, the provider must file a request as follows that:

- (1) States in writing facts demonstrating that the provider is the following:**
 - (A) A provider to whom the action is specifically directed.**
 - (B) Aggrieved or adversely affected by the action.**
 - (C) Entitled to review under any law.**
- (2) Is filed with the director of the division within fifteen (15) calendar days after the provider receives notice of the agency action or determination.**

(b) Administrative review shall be conducted in accordance with IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-7-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 928)*

Rule 8. Rights of Individuals

460 IAC 1.1-8-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-8-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 928)*

460 IAC 1.1-8-2 Constitutional and statutory rights

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 12-27

Sec. 2. (a) A provider shall ensure that an individual's rights as guaranteed by the Constitution of the United States and the Constitution of the State of Indiana are not infringed upon by the provider.

(b) A provider shall ensure that:

- (1) an individual's rights as set out in IC 12-27 are not infringed upon by the provider; and**

(2) an individual has the ability to exercise those rights as provided in IC 12-27.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-8-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 929)

460 IAC 1.1-8-3 Promoting the exercise of rights

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. To protect an individual's rights and enable an individual to exercise the individual's rights, a provider shall do the following:

(1) Provide an individual with humane care and protection from harm.

(2) To the extent possible, provide services in a safe, secure, and supportive environment that:

(A) meet the assessed needs and are appropriate; and

(B) comply with:

(i) standards of professional practice;

(ii) guidelines established by accredited professional organizations if applicable; and

(iii) budgetary constraints.

(3) Obtain written consent from an individual, or the individual's legal representative if applicable, before releasing information from the individual's records unless the person requesting release of the records is authorized by law to receive the records without consent.

(4) Process and make decisions regarding complaints filed by an individual within two (2) weeks after the provider receives the complaint.

(5) Inform an individual in writing and in the individual's usual mode of communication, evidenced by signed documentation of the following:

(A) The individual's constitutional and statutory rights using a form approved by the BAIHS.

(B) The complaint procedure established by the provider for processing complaints.

(C) The complaint procedure established by DDARS or its designee on the approved complaint form.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-8-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 929)

Rule 9. Protection of an Individual

460 IAC 1.1-9-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-9-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 929)*

460 IAC 1.1-9-2 Adoption of policies and procedures to protect individuals

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-11-1-1; IC 12-11-2.1

Sec. 2. (a) A provider shall adopt written policies and procedures regarding the requirements of sections 3 and 4 of this rule.

(b) A provider shall require the provider's employees or agents to be familiar with and comply with the policies and procedures required by subsection (a).

(c) Beginning on the date services for an individual commence and at least one (1) time a year thereafter, the case manager shall inform:

(1) the individual in writing and in the individual's usual mode of communication;

(2) the individual's parent, if the individual is less than eighteen (18) years of age or if the individual's parent is the individual's legal representative; and

(3) the individual's legal representative if applicable;

of the policies and procedures adopted under this section and 460 IAC 1.1-8-3. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-9-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 929)*

460 IAC 1.1-9-3 Prohibiting violations of individual rights

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. (a) A provider shall not:

- (1) abuse, neglect, exploit, or mistreat an individual; or**
- (2) violate an individual's rights as provided in 460 IAC 1.1-8-2.**

(b) A provider who delivers services through employees or agents shall adopt policies and procedures that prohibit:

- (1) abuse, neglect, exploitation, or mistreatment of an individual; or**
- (2) violation of an individual's rights.**

(c) Practices prohibited under this section include, but are not limited to, the following:

(1) Corporal punishment inflicted by the application of painful stimuli to the body, which includes any of the following:

- (A) Forced physical activity.**
- (B) Hitting.**
- (C) Pinching.**
- (D) The application of painful or noxious stimuli.**
- (E) The use of electric shock.**
- (F) The infliction of physical pain.**

(2) Seclusion by placing an individual alone in a room or other area from which exit is prevented.

(3) Verbal abuse, including:

- (A) screaming;**
- (B) swearing;**
- (C) name-calling;**
- (D) belittling; or**
- (E) other verbal activity;**

that may cause damage to an individual's self-respect or dignity.

(4) A practice that denies an individual any of the following without a health care practitioner's order:

- (A) Sleep.**
- (B) Shelter.**
- (C) Food.**
- (D) Drink.**
- (E) Physical movement for prolonged periods of time.**
- (F) Medical care or treatment.**
- (G) Use of bathroom facilities.**

(5) Work or chores benefiting others without pay unless:

- (A) the provider has obtained a certificate from the United States Department of Labor authorizing the employment of workers with a disability at special minimum wage rate;**
- (B) the services are being performed by an individual in the individual's own residence as a normal and customary part of housekeeping and maintenance duties; or**
- (C) an individual desires to perform volunteer work in the community.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-9-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 929)

460 IAC 1.1-9-4 Procedures for protecting individuals

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. (a) Except as specified in this section, this section applies to all providers of home and community based services.

(b) The individual's case manager shall inform the individual at regular intervals, as specified by the individual's care plan, of the following:

- (1) The individual's medical condition.**
- (2) The individual's cognitive and behavioral status.**
- (3) The advantages and disadvantages of the current plan of care.**

(4) The individual's right to refuse treatment.

(c) The individual's support team shall establish a procedure to ensure that an individual:

(1) Has the opportunity for personal privacy.

(2) Is not compelled to perform services for a provider.

(3) Who works voluntarily for a provider is compensated:

(A) at the prevailing wage for the job; and

(B) commensurate with the individual's abilities;

unless the provisions of section 3(c)(5) of this rule are met.

(4) Has the opportunity to communicate, associate, and meet privately with persons of the individual's choosing.

(5) Has the means to send and receive unopened mail.

(6) Has access to a telephone with privacy for incoming and outgoing local and long distance calls at the individual's expense.

(7) Has the opportunity to participate in social, religious, and community activities.

(8) Has the right to retain and use appropriate personal possessions and clothing.

(9) Is free of threat of or actual harm from misuse or misappropriation of funds or property.

(d) The BAIHS protocol specified in the incident reporting policy manual describes the responsibilities of the provider of services for conducting an investigation or participating in an investigation of an alleged violation of an individual's rights or a reportable unusual occurrence, including taking all immediate necessary steps to protect an individual who has been the victim of abuse, neglect, exploitation, or mistreatment from further abuse, neglect, exploitation, or mistreatment.

(e) Each provider of services shall establish a written procedure providing for:

(1) administrative action against;

(2) investigating an alleged violation by;

(3) disciplinary action against; and

(4) dismissal of;

an employee or agent of the provider, if the employee or agent is involved in the abuse, neglect, exploitation, or mistreatment of an individual or a violation of an individual's rights.

(f) Each provider of services shall establish a written procedure for employees or agents of the provider to report violations of the provider's policies and procedures to the provider.

(g) Each provider of services shall establish a written procedure for the provider or for an employee or agent of the provider for informing:

(1) adult protective services or child protection services as applicable;

(2) an individual's legal representative if applicable;

(3) any person designated by the individual; and

(4) the provider of case management services to the individual;

of a situation involving the abuse, neglect, exploitation, or mistreatment of an individual or the violation of an individual's rights.

(h) Each provider of services shall establish a written protocol for reporting reportable unusual occurrences to the BAIHS as required by section 5 of this rule.

(i) Each provider of services shall establish a written protocol for the individual receiving services on the right to and how to file a complaint with the BAIHS. (Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-9-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 930)

460 IAC 1.1-9-5 "Unusual occurrence" defined; reporting

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 35-46-1-4; IC 35-46-1-12

Sec. 5. (a) As used in this article, "unusual occurrence" means an incident of suspected abuse, neglect, or exploitation of an adult or child residing in a community residential setting with home and community based services. All incidents falling

in this category must be reported on the prescribed incident reporting form approved by DDARS and also reported, as applicable, to adult protective services or child protective services.

(b) Examples of an unusual occurrence include, but are not limited to, the following:

(1) Alleged, suspected, or actual abuse, neglect, or exploitation of an individual. The provider shall suspend staff involved from duties related to direct client care pending provider investigation, and shall report the unusual occurrence to the applicable adult protective services or child protective services office.

(A) "Abuse", for purposes of this subsection, includes, but is not limited to, the following:

- (i) Intentional or willful infliction of physical injury.
- (ii) Unnecessary physical or chemical restraints or isolation.
- (iii) Punishment with resulting physical harm or pain.
- (iv) Sexual molestation, rape, sexual misconduct, sexual coercion, and sexual exploitation.
- (v) Verbal or demonstrative harm caused by oral or written language or gestures with disparaging or derogatory implications.
- (vi) Any harm caused by:
 - (AA) unreasonable confinement;
 - (BB) intimidation;
 - (CC) humiliation;
 - (DD) harassment;
 - (EE) threats of punishment;
 - (FF) deprivation;
 - (GG) neglect; or
 - (HH) physical or financial exploitation.

(B) "Neglect", for purposes of this subsection, means either of the following:

- (i) Failure to provide supervision, training, or appropriate care.
- (ii) Failure to provide food, medical care, or medical supervision to an individual as described under IC 35-46-1-4.

(C) "Exploitation", for purposes of this subsection, means either of the following:

- (i) Unauthorized use of the:
 - (AA) personal services;
 - (BB) the property; or
 - (CC) the identity;of an individual.
- (ii) Any other type of criminal exploitation, including exploitation under IC 35-46-1-12, for one's own profit or advantage or for the profit or advantage of another.

(2) Accidental or unexpected death of an individual. All deaths must also be reported to adult protective services or child protective services. The narrative must include the following:

- (A) Name of the person contacted.
- (B) Phone number of the contact.
- (C) County of the contact.

(3) A residence that compromises the health and safety of an individual due to a significant interruption of a major utility, such as the following:

- (A) Electricity.
- (B) Heat.
- (C) Water.
- (D) Air conditioning.
- (E) Plumbing.
- (F) Fire alarm.
- (G) Sprinkler system (if applicable).

(4) Environmental or structural problems associated with a residence that compromises the health and safety of an individual including the following:

- (A) Inappropriate sanitation.
- (B) Rodents.
- (C) Structural damage.
- (D) Damage caused by acts of nature, including the following:
 - (i) Lightning.

- (ii) Flood.
 - (iii) Weather.
- (5) Residential fire resulting in the following:
 - (A) Relocation.
 - (B) Personal injury.
 - (C) Property loss.
 - (D) Other issues.
- (6) Observed criminal activity by any of the following:
 - (A) A staff member, employee, or agent of a provider.
 - (B) A family member of an individual receiving services.
 - (C) The individual receiving services.
- (7) Injuries of unknown origin. A significant injury of unknown origin to an individual may include, but is not limited to, the following:
 - (A) A fracture.
 - (B) A burn greater than first degree.
 - (C) Choking that requires intervention.
 - (D) Contusions or lacerations.
 - (E) Any injury that may involve treatment by a health care practitioner.
 - (F) A fall by an individual who does not usually fall.
- (8) Attempted suicide that results in physical harm or injury to the individual, plus the need for around-the-clock care (regardless of the type of facility).
- (9) Suspected rape, sexual assault, or sexual exploitation by a person receiving services.
- (10) A major disturbance or threat to public safety created in the community by the individual. The threat can be toward anyone including staff and can be in an internal setting. It does not have to be outside the residential setting.
- (11) Police involvement when there is an arrest of the individual.
- (12) Elopement or missing person. Questions that should be answered to report a missing person include the following:
 - (A) How long the individual was gone.
 - (B) How the individual eloped or became missing without someone's noticing.
 - (C) Where the staff was and what the staff was doing at the time of the elopement or when the person became missing.
 - (D) Where the individual was found.
 - (E) Who found the individual.
 - (F) How the individual was found, including what the individual was doing and their condition.
 - (G) Was the individual at risk to himself or herself or to others, or both.
 - (H) What is the history of previous elopements or missing persons with this individual.
 - (I) What measures are in place to prevent this in the future.
 - (J) Is there a behavioral support plan in place to address this.
- (13) Medication errors.
 - (A) This subdivision applies only if medication is administered by a paid provider.
 - (B) Refusal to take medications does not constitute an error and does not require filing of an incident report but should be followed up by medical personnel and the support team to ensure that the health and safety of the individual is safeguarded. This information should also be documented in the individual's record.
 - (C) If an individual cannot self-medicate, a medication error, except for refusal to take medications, that jeopardizes an individual's health and safety, includes the following:
 - (i) Medication given that was not prescribed or ordered for the individual.
 - (ii) Failure to administer medication as prescribed, including the following:
 - (AA) Incorrect dosage.
 - (BB) Missed medication.
 - (CC) Failure to give medication at the appropriate time.
- (14) Use of any PRN medication related to an individual's behavior.
- (15) Inadequate staff support for an individual, including inadequate supervision, with the potential for either of the following:
 - (A) Significant harm or injury to an individual.
 - (B) Death of an individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-9-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 931)

460 IAC 1.1-9-6 Transfer of individual's records upon change of provider

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 6. (a) If an individual changes providers for any home and community based service, the provider shall do the following:

- (1)** Discuss with the individual the new provider's need to obtain a copy of the previous provider's records and files concerning the individual.
- (2)** Provide the individual with a written form used to authorize the previous provider's release of a copy of the records and files concerning the individual to the new provider.
- (3)** Request the individual to sign the release form.

(b) Upon receipt of a written release signed by the individual, a provider shall forward a copy of the case summary, the most current medical plan of care, and the Medicaid prior authorization plan from the individual's records and files to the new provider no later than seven (7) calendar days after receipt of the written release signed by the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-9-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 932)*

460 IAC 1.1-9-7 Notice of termination of services

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. (a) A provider shall give an individual and an individual's representative written notice as prescribed by the BAIHS provider agreement before terminating the individual's services, if the services being provided to the individual are of an ongoing nature.

(b) If the provider is providing any services to the individual, besides case management services, before terminating services, the provider shall continue providing services to the individual until a new provider providing similar services is in place. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-9-7; filed Nov 4, 2004, 3:00 p.m.: 28 IR 932)*

Rule 10. General Administrative Requirements for Providers

460 IAC 1.1-10-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 933)*

460 IAC 1.1-10-2 Documentation of approvals

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A provider shall maintain documentation that the BAIHS has approved the provider for each service provided. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 933)*

460 IAC 1.1-10-3 Compliance with laws

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. A provider shall comply with all applicable state and federal statutes, rules, regulations, and requirements, including all applicable provisions of the federal Older Americans Act, Public Law 89-73, Americans with Disabilities Act (ADA), 42 U.S.C. 12001 et seq. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 933)*

460 IAC 1.1-10-4 Compliance with state Medicaid plan; Medicaid waivers

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. A provider shall comply with the provisions of:

- (1) the state Medicaid plan; and
- (2) any Medicaid waiver applicable to the provider's services;

or the provider may face the sanctions set out in 460 IAC 1.1-7. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 933*)

460 IAC 1.1-10-5 Documentation of criminal histories

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10; IC 12-10-13; IC 12-10-17; IC 16-27-2-5; IC 31-33-22-1; IC 35-42-1; IC 35-42-4; IC 35-43-4; IC 35-46-1-12; IC 35-46-1-13

Sec. 5. (a) A provider shall obtain a full criminal history from each employee involved in the direct management, administration, or provision of services from the following:

- (1) The Indiana central repository; and
- (2) The county or counties of residence for the previous three (3) years.

(b) The full criminal history shall verify that the employee, officer, or agent does not have any evidence of any of the following:

- (1) A sex crime (IC 35-42-4).
- (2) Exploitation of an endangered adult (IC 35-46-1-12).
- (3) Failure to report either of the following:
 - (A) Battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
 - (B) Abuse or neglect of a child (IC 31-33-22-1).
- (4) Theft (IC 35-43-4), if the person's conviction for theft occurred less than ten (10) years before the person's employment application date, except as provided in IC 16-27-2-5(a)(5).
- (5) Murder (IC 35-42-1-1).
- (6) Voluntary manslaughter (IC 35-42-1-3).
- (7) Involuntary manslaughter (IC 35-42-1-4).
- (8) Felony battery.
- (9) A felony offense relating to a controlled substance.

(c) A provider shall have a report from the state nurse aid registry of the Indiana state department of health verifying that each employee or agent involved in the direct provision of services has not had a finding entered into the state nurse aide registry.

(d) A provider shall have all licensed health professionals checked for findings through the Indiana health professions bureau.

(e) If an individual is utilizing self-directed care, the individual's choice of assistant must be trained as indicated in IC 12-10-17-5 and must be placed on the state DDARS/BAIHS registry under IC 12-10-17-12. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 933*)

460 IAC 1.1-10-6 Provider organizational chart

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 6. (a) A provider shall maintain a current organizational chart, including parent organizations and subsidiary organizations.

(b) Upon request, a provider shall supply the BAIHS with a copy of the chart described in subsection (a). (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 933*)

460 IAC 1.1-10-7 Collaboration and quality control

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 7. (a) A provider for an individual shall collaborate with the individual's other service providers to coordinate services to the individual consistent with the individual's care plan.

(b) A provider for an individual shall give the individual's provider of case management services access to the provider's quality assurance and quality improvement procedures.

(c) If a provider administers medication to an individual, the provider for the individual shall implement the medication assistance procedure designed by the individual's provider responsible for medication administration.

(d) If applicable, a provider for an individual shall implement the seizure management procedure designed by the individual's provider responsible for seizure management.

(e) If applicable, a provider for an individual shall implement the health-related unusual occurrence management procedure designed by the individual's provider.

(f) If applicable, a provider for an individual shall implement the behavioral support plan designed by the individual's provider of behavioral support services.

(g) If an individual dies, a provider shall cooperate with the provider responsible for conducting an investigation into the individual's death under 460 IAC 1.1-25-6. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-7; filed Nov 4, 2004, 3:00 p.m.: 28 IR 933)*

460 IAC 1.1-10-8 Resolution of disputes

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 8. (a) If a dispute arises between or among providers, the dispute resolution process set out in this section shall be implemented.

(b) The resolution of a dispute shall be designed to address an individual's needs.

(c) The parties to the dispute shall attempt to resolve the dispute informally through an exchange of information and possible resolution.

(d) If the parties are not able to resolve the dispute within fifteen (15) days:

(1) each party shall document:

(A) the issues in the dispute;

(B) their positions; and

(C) their efforts to resolve the dispute; and

(2) the parties shall refer the dispute to the BAIHS for resolution in coordinating the recipient's needs.

(e) The parties shall abide by the decision of the BAIHS.

(f) Any party adversely affected or aggrieved by the BAIHS decision may request an administrative review of the decision within fifteen (15) days after the party receives written notice of the recommendation.

(g) Administrative review shall be conducted under IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-8; filed Nov 4, 2004, 3:00 p.m.: 28 IR 934)*

460 IAC 1.1-10-9 Automation standards

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 9. A provider shall comply with all automation standards and requirements prescribed by the applicable funding agency concerning documentation and processing of services provided under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-9; filed Nov 4, 2004, 3:00 p.m.: 28 IR 934)*

460 IAC 1.1-10-10 Quality assurance and quality improvement system

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 10. (a) A provider shall have an internal quality assurance and quality improvement system that is:

- (1) focused on the individual; and**
- (2) appropriate for the services being provided.**

(b) The system described in subsection (a) shall include at least the following elements:

- (1) An annual survey of individual satisfaction.**
- (2) Records of the findings of annual individual satisfaction surveys.**
- (3) Documentation of efforts to improve service delivery in response to the survey of individual satisfaction.**
- (4) An assessment of the appropriateness and effectiveness of each service provided to an individual.**
- (5) A process for the following, if applicable:**
 - (A) Analyzing data concerning reportable incidents.**
 - (B) Developing recommendations to reduce the risk of future incidents.**
 - (C) Reviewing the recommendations to assess their effectiveness.**
- (6) If behavioral support services are provided by a provider, a process for the following:**
 - (A) Analyzing the appropriateness and effectiveness of behavioral support techniques used for an individual.**
 - (B) Developing recommendations concerning the behavioral support techniques used with an individual.**
 - (C) Reviewing the recommendations to assess their effectiveness.**
- (7) If community habilitation and participation are provided by a provider, a process for:**
 - (A) analyzing the appropriateness and effectiveness of instructional techniques used for an individual;**
 - (B) developing recommendations concerning the instructional techniques used with an individual; and**
 - (C) reviewing the recommendations to assess their effectiveness.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-10; filed Nov 4, 2004, 3:00 p.m.: 28 IR 934)

460 IAC 1.1-10-11 Prohibition against office in residence of individual

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 11. In the instance where residency is a service, a provider shall not:

- (1) maintain an office in an individual's residence from which the individual is excluded from entering or from using any or all equipment contained in the office; or**
- (2) conduct the provider's business operations not related to services to the individual in the individual's residence.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-11; filed Nov 4, 2004, 3:00 p.m.: 28 IR 935)

460 IAC 1.1-10-12 Emergency behavioral support

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 12. (a) In an emergency, chemical restraint, physical restraint, or removal of an individual from the individual's environment may be used:

- (1) without the necessity of a behavioral plan; and**
- (2) only to prevent significant harm to the individual or others.**

(b) The individual's support team shall meet not later than five (5) working days after an emergency chemical or physical restraint or removal of an individual from the environment in order to do the following:

- (1) Review the circumstances of the emergency chemical or physical restraint or removal of an individual.**

(2) Determine the need for either of the following:

(A) A functional analysis.

(B) A behavioral support plan.

(3) Document recommendations.

(c) If a provider of behavioral support services is not a member of an individual's support team, a provider of behavioral support services must be added to the individual's support team.

(d) Based on the recommendations of the support team, a provider of behavioral support services shall do the following:

(1) Complete a functional analysis within thirty (30) days.

(2) Make appropriate recommendations to the support team.

(e) The individual's support team shall do the following:

(1) Document the recommendations of the behavioral support services provider.

(2) Design an accountability system to ensure implementation of the recommendations.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-10-12; filed Nov 4, 2004, 3:00 p.m.: 28 IR 935)

Rule 11. Financial Status of Providers

460 IAC 1.1-11-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-11-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 935)*

460 IAC 1.1-11-2 Disclosure of financial information

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 5-11-1; IC 12-10-1; IC 12-10-10

Sec. 2. (a) A provider shall maintain and, upon the BAIHS request, shall make available to the BAIHS or its designee the following information concerning the provider:

(1) Financial status.

(2) Current expenses and revenues.

(3) Projected budgets outlining future operations.

(4) Credit history and the ability to obtain credit.

(b) A provider shall maintain financial records in accordance with generally accepted accounting and bookkeeping practices.

(c) The financial status of a provider shall be audited according to state board of accounts requirements and procedures. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-11-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 935)*

460 IAC 1.1-11-3 Financial stability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. A provider must show proof of credit line from a bank and should have sufficient cash reserves to deliver services without interruption for at least two (2) months without payment for services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-11-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 935)*

Rule 12. Insurance

460 IAC 1.1-12-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-12-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 935)*

460 IAC 1.1-12-2 Property and personal liability insurance

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A provider shall secure sufficient insurance to cover:

- (1) personal injury;**
- (2) loss of life; and**
- (3) property damage;**

to an individual caused by fire, accident, or other casualty arising from the provision of services to the individual by the provider. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-12-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 936)*

Rule 13. Transportation of an Individual

460 IAC 1.1-13-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-13-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 936)*

460 IAC 1.1-13-2 Transportation of an individual

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A provider that transports an individual receiving services in a provider owned motor vehicle shall do the following:

- (1) Maintain the vehicle in good repair.**
- (2) Properly register the vehicle with the Indiana bureau of motor vehicles or in the state in which the owner of the vehicle resides.**
- (3) Insure the vehicle as required under Indiana law.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-13-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 936)

Rule 14. Professional Qualifications and Requirements

460 IAC 1.1-14-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-14-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 936)*

460 IAC 1.1-14-2 Requirement for qualified personnel

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A provider shall ensure that services provided to an individual:

- (1) meet the needs of the individual;**
- (2) conform to the individual's care plan; and**
- (3) are provided by qualified personnel as required under this article.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-14-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 936)

460 IAC 1.1-14-3 Documentation of qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. A provider shall maintain documentation that:

- (1) the provider meets and maintains the requirements for providing services under this article; and**
- (2) the provider's employees or agents meet and maintain the requirements for providing services under this article.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-14-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 936)

460 IAC 1.1-14-4 Training

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. (a) A provider shall train the provider's employees or agents in the protection of an individual's rights, including how to do the following:

- (1) Respect the dignity of an individual.**
- (2) Protect an individual from abuse, neglect, and exploitation.**
- (3) Implement an appropriate comprehensive assessment and an individual's care plan.**
- (4) Communicate successfully with an individual.**

(b) A provider identified in the care plan that develops training goals and objectives for an individual shall train the provider's employees or agents in the following:

- (1) The strategies required to assure process toward the outcomes and objectives.**
- (2) Appropriate documentation of an individual's progress on outcomes and objectives.**

(c) A provider shall train staff, within their appropriate job duties, in providing a healthy and safe environment for an individual, including, but not limited to, if applicable, how to do the following:

- (1) Assist with medication.**
- (2) Administer first aid.**
- (3) Administer cardiopulmonary resuscitation.**
- (4) Practice infection control.**
- (5) Practice universal precautions.**
- (6) Manage individual-specific treatments and interventions, including, where applicable, management of an individual's:**
 - (A) seizures;**
 - (B) behavior;**
 - (C) medication side effects;**
 - (D) diet and nutrition;**
 - (E) swallowing difficulties;**
 - (F) emotional and physical crises; and**
 - (G) significant health concerns.**
- (7) Conduct and participate in emergency drills and evacuations as identified by the care plan.**

(d) A person shall complete applicable training as required in this section prior to that person working alone with an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-14-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 936)*

460 IAC 1.1-14-5 Requirements for direct care staff

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 5. All direct care staff working with individuals shall meet the following requirements:

- (1) Be at least eighteen (18) years of age.**
- (2) Demonstrate the ability to communicate adequately in order to do the following:**
 - (A) Complete required forms and reports of visits.**
 - (B) Follow oral or written instructions.**
- (3) Demonstrate the ability to provide services according to the individual's care plan.**

(4) Demonstrate willingness to accept supervision.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-14-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 937)

Rule 15. Personnel Records

460 IAC 1.1-15-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-15-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 937)*

460 IAC 1.1-15-2 Maintenance of personnel files

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. (a) A provider shall maintain, in the provider's office, files for each employee or agent of the provider.

(b) The provider's files for each employee or agent shall contain the following:

(1) A tuberculin skin test prior to providing services and updated in accordance with recommendations of centers for disease control and will include either of the following:

(A) A negative finding or zero (0) mm reaction.

(B) All employees who have a positive reaction to the skin test shall be required to have a chest x-ray and other physical and laboratory examinations in order to complete a diagnosis.

(2) Cardiopulmonary resuscitation certification updated in accordance with the standards of the American Heart Association, the American Red Cross, or another entity approved by the BAIHS.

(3) Auto insurance information, updated when the insurance is paid, if the employee or agent will be transporting an individual in the employee's or agent's personal vehicle.

(4) Full criminal history information that meets the requirements of 460 IAC 1.1-10-5.

(5) Professional licensure, certification, or registration, including renewals, as applicable.

(6) A copy of the employee's or agent's driver's license updated when the license is due to expire.

(7) Records of the agent's invoices for services.

(8) Copies of the agenda for each training session attended by the employee or agent, including the following:

(A) Subject matter included in each training session.

(B) The date and time of each training session.

(C) The name of the person or persons conducting each training session.

(D) Documentation of the employee's or agent's attendance at each session, signed by:

(i) the employee or agent; and

(ii) the trainer.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-15-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 937)

Rule 16. Personnel Policies and Manuals

460 IAC 1.1-16-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. (a) This rule applies to a provider who uses employees or agents to provide services.

(b) This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-16-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 937)*

460 IAC 1.1-16-2 Adoption of personnel policies

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. (a) A provider shall do the following:

- (1) Adopt and maintain a written personnel policy.**
- (2) Review and update the personnel policy as appropriate.**
- (3) Distribute the personnel policy to each employee or agent.**
- (4) Adopt and maintain a job description for each position, including the following:**
 - (A) Minimum qualifications for the position.**
 - (B) Major duties required of the position.**
 - (C) Responsibilities of the employee in the position.**

(b) The written personnel policy required by subsection (a) must include, but is not limited to, the following:

- (1) A procedure for conducting reference, employment, and criminal background checks on each prospective employee or agent.**
- (2) A prohibition against employing or contracting with a person convicted of the offenses listed in 460 IAC 1.1-10-5.**
- (3) A process for evaluating the job performance of each employee or agent at the end of the training period and annually thereafter, including a process for feedback from individuals receiving services from the employee or agent.**
- (4) Disciplinary procedures.**
- (5) A description of grounds for disciplinary action against or dismissal of an employee or agent.**
- (6) A clear description of an employee's rights and responsibilities, including the responsibilities of administrators and supervisors.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-16-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 937)

460 IAC 1.1-16-3 Policies and procedures documentation

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. (a) A provider shall do the following:

- (1) Adopt and maintain a written training procedure.**
- (2) Review and update the training procedure as appropriate.**
- (3) Distribute the training procedure to the provider's employees or agents.**

(b) The written training procedure required by subsection (a) shall include at least the following:

- (1) Mandatory orientation for each new employee or agent to assure the employee's or agent's understanding of and compliance with the following:**
 - (A) The mission, goals, organization, and practices of the provider.**
 - (B) The applicable requirements of this article.**
- (2) A system for documenting the training for each employee or agent, including the following:**
 - (A) The type of training provided.**
 - (B) The name and qualifications of the trainer.**
 - (C) The duration of training.**
 - (D) The date or dates of training.**
 - (E) The signature of the trainer, verifying the satisfactory completion of training by the employee or agent.**
 - (F) The signature of the employee or agent.**
- (3) A system for ensuring that a trainer has sufficient education, expertise, and knowledge of the subject to achieve listed outcomes required under the system.**
- (4) A system for providing annual inservice training to improve the competence of employees or agents in the following areas:**
 - (A) Protection of individual rights, including protection against abuse, neglect, or exploitation.**
 - (B) Unusual occurrence reporting.**
 - (C) Medication assistance if the provider assists with medication to an individual.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-16-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 938)

460 IAC 1.1-16-4 Operations manual

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. (a) A provider shall compile the written policies and procedures required by sections 1 through 3 of this rule into a written operations manual.

(b) The operations manual shall be regularly updated and revised.

(c) Upon the request of the BAIHS the provider shall do the following:

(1) Supply a copy of the operations manual to the BAIHS or other state agency at no cost; the BAIHS or its designee will maintain the confidentiality of any proprietary information.

(2) Make the operations manual available to the BAIHS or other state agency for inspection at the offices of the provider.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-16-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 938)

Rule 17. Maintenance of Records of Services Provided

460 IAC 1.1-17-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-17-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 938)*

460 IAC 1.1-17-2 Maintenance of records of services provided

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. (a) This section applies to all providers.

(b) A provider shall maintain, in the provider's office, documentation of all services provided to an individual.

(c) Documentation related to an individual and required by this article shall be maintained by the provider for at least seven (7) consecutive years following discharge of the individual or as specified in law or rule.

(d) A provider shall analyze and maintain the documentation required by the following:

(1) The standards under this article applicable to the services the provider is providing to an individual.

(2) The professional standards applicable to the provider's profession.

(3) The individual's care plan.

(e) A provider shall analyze and update the documentation at least every ninety (90) days if:

(1) the standards under this article do not provide a standard for analyzing and updating documentation;

(2) the professional standards applicable to the provider's profession do not provide a standard; or

(3) a standard is not set out in the individual's care plan.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-17-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 938)

460 IAC 1.1-17-3 Individual's personal file; site of service delivery

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. (a) A provider specified in the individual's care plan as being responsible for maintaining the individual's personal file shall maintain a personal file for the individual at the individual's residence or:

(1) the primary location where the individual receives services; and

(2) the offices of the specified provider.

(b) There must be a system in place for the transfer of information from each provider listed on the individual's care plan.

(c) The individual's personal file shall contain the following information:

(1) The individual's full name.

- (2) Telephone numbers for emergency services that may be required by the individual.
- (3) A current sheet with a brief summary regarding the following:
 - (A) The individual's diagnosis or diagnoses.
 - (B) The individual's treatment protocols, current medications, and other health information specified by the individual's care plan.
 - (C) Behavioral information about the individual, if applicable.
 - (D) Likes and dislikes of the individual that have been identified in the individual's care plan.
 - (E) Other information relevant to working with the individual.
- (4) The individual's history of allergies, if applicable.
- (5) Consent by the individual or the individual's legal representative for emergency treatment for the individual.
- (6) A photograph of the individual if:
 - (A) a photograph is available; and
 - (B) inclusion of a photograph in the individual's file is specified by the individual's care plan.
- (7) A copy of the individual's current care plan.
- (8) A copy of the individual's behavioral support plan if applicable.
- (9) Documentation of the following:
 - (A) Changes in the individual's physical condition or mental status during the last sixty (60) days.
 - (B) An unusual event such as:
 - (i) vomiting;
 - (ii) choking;
 - (iii) falling;
 - (iv) injuries with unknown origin;
 - (v) disorientation or confusion;
 - (vi) behavioral problems; or
 - (vii) seizures;
- occurring during the last sixty (60) days.
- (C) The response of each provider to the observed change or unusual event.
- (10) If an individual's goals include bill paying and other financial matters, the individual's file shall contain, if applicable, the following:
 - (A) The individual's checkbook with clear documentation that the checkbook has been balanced.
 - (B) Bank statements with clear documentation that the bank statements and the individual's checkbook have been reconciled.
- (11) All environmental assessments conducted during the last sixty (60) days with the signature of the person or persons conducting the assessment on the assessment.
- (12) All medication administration documentation for the last sixty (60) days if not self-medicating.
- (13) All seizure management documentation for the last sixty (60) days.
- (14) Health-related unusual occurrence or incident management documentation for the last sixty (60) days.
- (15) All nutritional counseling services documentation for the last sixty (60) days.
- (16) All behavioral support services documentation for the last sixty (60) days.
- (17) All goal directed documentation for the last sixty (60) days.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-17-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 939)

460 IAC 1.1-17-4 Individual's personal file; provider's office

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. (a) A provider specified in the individual's care plan as being responsible for maintaining the individual's personal file shall maintain a personal file for an individual at the provider's office.

- (b) The individual's personal file should include, but is not limited to, documentation of the following:
 - (1) A change in an individual's physical condition or mental status.
 - (2) An unusual event for the individual.
 - (3) All health and medical services provided to an individual.
 - (4) An individual's training goals.

(c) A change or unusual event referred to in subsection (b) shall include the following:

- (1) Vomiting.
- (2) Choking.
- (3) Falling.
- (4) Disorientation or confusion.
- (5) Patterns of behavior.
- (6) A seizure.

(d) The documentation of a change or an event referred to in subsections (b) and (c) shall, if applicable, include the following:

- (1) The date, time, and duration of the change or event.
- (2) A description of the response of the provider or the provider's employees or agents to the change or event.
- (3) The signature of the provider or the provider's employees or agents observing the change or event.

(e) The documentation of all health and medical services provided to the individual shall:

- (1) be kept chronologically; and
- (2) include the following:
 - (A) Date of services provided to the individual.
 - (B) A description of services provided.
 - (C) The signature of the health care professional providing the services.

(f) The individual's training file shall include documentation regarding the individual's training goals required by 460 IAC 1.1-24-1. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-17-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 939*)

Rule 18. Behavioral Support Services

460 IAC 1.1-18-1 Preparation of behavioral support plan

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. A behavioral support services provider shall prepare a behavioral support plan for an individual only after the provider has:

- (1) directly observed the individual; and
- (2) reviewed reports regarding the individual.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-18-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 940*)

460 IAC 1.1-18-2 Behavioral support plan standards

Authority: IC 12-8-8-4; IC 12-9-2-2

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A behavioral support plan shall do the following:

- (1) Meet the standards set out in this section and be part of an approved care plan for the individual.
- (2) Operationally define the targeted behavior or behaviors.
- (3) Be based upon a functional analysis of the targeted behaviors.
- (4) Contain written guidelines for teaching the individual functional and useful behaviors to replace the individual's maladaptive behavior.
- (5) Use nonaversive methods for teaching functional and useful replacement behaviors.
- (6) Conform to the individual's care plan, including the needs and outcomes identified in the care plan and the care plan specifications for behavioral support services.
- (7) Contain documentation that each person implementing the plan:
 - (A) has received specific training as provided in the plan in the techniques and procedures required for implementing the behavioral support plan; and
 - (B) understands how to use the techniques and procedures required to implement the behavioral support plan regardless of whether the person implementing the plan is an employee or agent of the behavioral support services provider.
- (8) A behavioral support plan shall contain a documentation system for direct care staff working with the individual to

record episodes of the targeted behavior or behaviors. The documentation system shall include a method to record the following information:

- (A) Dates and times of occurrences of the targeted behavior.
- (B) Length of time the targeted behavior lasted.
- (C) Description of what precipitated the targeted behavior.
- (D) Description of what activities helped alleviate the targeted behavior.
- (E) Signature of staff observing and recording the targeted behavior.

(9) If the use of medication is included in a behavioral support plan, a behavioral support plan shall contain one (1) of the following:

- (A) A plan for assessing the use of the medication and the appropriateness of a medication reduction plan by a health care or psychiatric practitioner within the scope of their duties.
- (B) Documentation that a medication use reduction plan for the individual was:
 - (i) implemented within the past five (5) years; and
 - (ii) proved to be not effective.

(10) If a highly restrictive procedure is included in a behavioral support plan, a behavioral support plan shall contain the following:

- (A) A functional analysis of the targeted behavior for which a highly restrictive procedure is designed.
- (B) Documentation that the risks of the targeted behavior have been weighed against the risk of the highly restrictive procedure.
- (C) Documentation that systematic efforts to replace the targeted behavior with an adaptive skill were used and found to be not effective.
- (D) Documentation that the individual and the individual's support team agree that the use of the highly restrictive method is required to prevent significant harm to the individual or others.
- (E) Informed consent from the individual or the individual's legal representative.
- (F) Documentation that the behavioral support plan is reviewed regularly by the individual's support team including the appropriate health care or psychiatric practitioner.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-18-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 940)

460 IAC 1.1-18-3 Written policy and procedure standards

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. A provider of behavioral support services shall have written policies and procedures that do the following:

- (1) Limit the use of highly restrictive procedures, including physical restraint or medications, to assist in the managing of behavior.
- (2) Focus on behavioral supports that begin with less intrusive or restrictive methods before more intrusive or restrictive methods are used.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-18-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 941)

460 IAC 1.1-18-4 Documentation standards

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. (a) This section applies to all providers of home and community based services and shall not supersede Medicaid statutes, regulations, bulletins, or rules if a conflict is found.

(b) A provider of behavioral support services shall maintain documentation regarding the development of a behavioral support plan that:

- (1) the least intrusive method was attempted and exhausted first; and
- (2) if a highly restrictive procedure is deemed to be necessary and included in a behavioral support plan, the actions required by section 2 of this rule have been taken.

(c) A provider of behavioral support services shall maintain the following documentation for each individual served:

- (1) A copy of the individual's behavioral support assessment.
- (2) If applicable, the individual's behavioral support plan.

- (3) Dates, times, and duration of each visit with the individual.
- (4) A description of the behavioral support activities conducted.
- (5) A description of behavioral support progress made.
- (6) The signature of the person providing the behavioral support services on each date the behavioral support service is provided.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-18-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 941)

460 IAC 1.1-18-5 Level 2 clinician standards

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 5. (a) If a behavioral support plan is developed by a level 2 clinician, the level 2 clinician shall be supervised by a level 1 clinician.

(b) A written approval by a level 1 clinician is required of all behavioral support plans developed by a level 2 clinician.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-18-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 941)

460 IAC 1.1-18-6 Implementation of behavioral support plan

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 6. All providers working with an individual shall implement the behavioral support plan designed by the individual's behavioral support services provider and support team under an approved care plan. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-18-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 941)*

Rule 19. Case Management

460 IAC 1.1-19-1 Information concerning an individual

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. A provider of case management services shall have the following information about an individual receiving case management services from the provider:

(1) The wants and needs of an individual, including the:

- (A) health;**
- (B) safety;**
- (C) behavioral needs; and**
- (D) wishes for self-directed care;**

of an individual.

(2) The array of services available to an individual whether the services are available under this article or are otherwise available.

(3) The availability of funding for an individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 941)

460 IAC 1.1-19-2 Training and orientation

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. (a) To become an approved case manager, the individual must attend the required case manager orientation training.

(b) To maintain the BAIHS approval to provide case management services under this article, a provider shall complete twenty (20) hours of training regarding case management services in each calendar year.

(c) The training prescribed by subsection (a) shall include at least ten (10) hours of training approved by DDARS.

(d) If the BAIHS identifies a systemic problem with a provider's services, the provider shall obtain training on the topics recommended by the BAIHS and may refer to 460 IAC 1.1-7. (Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 941)

460 IAC 1.1-19-3 Contact information

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. (a) A provider of case management services shall give the individual or the individual's legal representative, if applicable, clear instructions for contacting the provider.

(b) A provider of case management services shall give the individual or the individual's legal representative, if applicable, a summary of information and procedures on whom to contact if the individual needs assistance or has an emergency before or after business hours included in the approved plan of care. (Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 942)

460 IAC 1.1-19-4 Distribution of information

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. A provider of case management services shall ensure that:

- (1) the individual;**
 - (2) the individual's legal representative, if applicable; and**
 - (3) all other providers of services to the individual, regardless of whether the services are provided under this article;**
- have copies of relevant documentation, including information on individual rights, an individual's care plan, how to file complaints with the BAIHS, and requesting appeals concerning issues and disputes relating to the services provided to the individual. (Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 942)**

460 IAC 1.1-19-5 Evaluation of available providers

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 5. (a) A provider of case management services shall provide the individual or the individual's legal representative upon request, if applicable, with the following information:

- (1) A current list of providers approved under this article, including a complete description of services offered by each provider.**
- (2) Information regarding services the individual may need that are not provided under this article.**
- (3) The current BAIHS information guide for individuals on how to choose a provider.**

(b) The provider of case management services shall assist the individual or the individual's legal representative, if applicable, in evaluating potential service providers. (Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 942)

460 IAC 1.1-19-6 Monitoring of services

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 6. (a) A provider of case management shall monitor and document the quality, timeliness, and appropriateness of the care, services, and products delivered to an individual.

(b) The documentation required under this section shall include an appropriate assessment of the identified needs in the individual's care plan.

(c) The documentation required by this section shall include the following, as applicable:

- (1) Any medication administration procedure for the individual.**

- (2) An individual's behavioral support plan if applicable.
- (3) Any health-related unusual occurrence procedure for the individual.
- (4) Any side effect monitoring procedure for the individual.
- (5) Any seizure management procedure for the individual if applicable.
- (6) Any other procedure for the individual implemented by more than one (1) provider as part of the continuum of care.

(d) A provider of case management services shall monitor the services and outcomes established for the individual in the individual's care plan including, but not limited to, the following:

- (1) A provider of case management services shall timely follow-up on identified problems.
- (2) A provider of case management services shall act immediately to resolve critical issues and crises in accordance with this article.
- (3) If concerns with services or outcomes are identified, a provider of case management services shall do the following:
 - (A) Address the concerns in a timely manner.
 - (B) Involve all necessary providers and the individual's support team if necessary.

(e) A provider of case management services who is attempting to resolve a dispute shall follow the dispute resolution procedure described in 460 IAC 1.1-10-8.

(f) No later than thirty (30) days after the implementation of an individual's care plan, unless otherwise specified in the care plan, a provider of case management shall make the first monitoring contact with the individual.

(g) A provider of case management services shall have regular contact in person with the individual as required by the care plan and this section. The provider of case management services shall make at least:

- (1) one (1) contact in person with the individual every ninety (90) days to assess the quality and effectiveness of the care plan and utilize the ninety (90) day checklist; and
- (2) two (2) contacts in person each year in the individual's residence.

(h) If an individual's care plan requires more contact than required by subsection (g), the individual's care plan shall identify the amount of contact a provider of case management services must make with an individual receiving case management services.

(i) If applicable, a provider of case management services shall coordinate the provision of family and caregiver training services. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 942*)

460 IAC 1.1-19-7 Documentation of services provided

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 7. (a) A provider of case management services shall maintain documentation of each contact with the following:

- (1) An individual or a representative, or both, as identified.
- (2) An individual's providers.

(b) The documentation shall be updated and revised whenever case management services are provided for the individual.

(c) If a provider of case management services visits an individual at the individual's residence, the provider must, if applicable, make their presence known to the provider of environmental and living arrangement supports. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-7; filed Nov 4, 2004, 3:00 p.m.: 28 IR 943*)

460 IAC 1.1-19-8 Documentation; problem resolution

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 8. (a) A provider of case management services shall document, consistent with 460 IAC 1.1-9, the provider's follow-up and resolution of unusual occurrences.

(b) A provider of case management services shall keep the documentation required in this section in an individual's personal record maintained by the case manager. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-8; filed Nov 4, 2004, 3:00 p.m.: 28 IR 943)*

460 IAC 1.1-19-9 Conflict of interest

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 9. If a person provides case management services to an individual, then that person shall not provide any other service under this article to that particular individual, or any other individual under the medical Medicaid waivers, unless a waiver is received and approved by the BAIHS. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-19-9; filed Nov 4, 2004, 3:00 p.m.: 28 IR 943)*

Rule 20. Community Based Sheltered Employment Services

460 IAC 1.1-20-1 Staffing requirements

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. Community based sheltered employment services shall be provided with a staff ratio that does not exceed eight (8) individuals to one (1) staff member. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-20-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 943)*

Rule 21. Environmental Modification Supports

460 IAC 1.1-21-1 Warranty required

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. All environmental modification supports provided to an individual under this rule shall be warranted for at least ninety (90) days. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-21-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 943)*

460 IAC 1.1-21-2 Documentation required

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A provider of environmental modification supports shall maintain the following documentation regarding support provided to an individual:

- (1) The installation date of any adaptive aid or device, assistive technology, or other equipment.**
- (2) The maintenance date of any adaptive aid or device, assistive technology, or other equipment.**
- (3) A change made to any adaptive aid or device, assistive technology, or other equipment, including any:**
 - (A) alteration;**
 - (B) correction; or**
 - (C) replacement.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-21-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 943)

Rule 22. Facility Based Sheltered Employment Services

460 IAC 1.1-22-1 Staffing requirement

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-2.1-12

Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. All facility based sheltered employment services shall be provided with a staff ratio that does not exceed twenty (20) individuals to one (1) staff member. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-22-1; filed Nov 4,*

2004, 3:00 p.m.: 28 IR 944)

Rule 23. Family and Caregiver Training Services

460 IAC 1.1-23-1 Requirements for provision of services

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. A person providing family and caregiver training services shall have:

- (1) education;**
- (2) training; or**
- (3) experience;**

directly related to the training the person will be providing. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-23-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 944*)

460 IAC 1.1-23-2 Supervision of providers

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. Any person providing family and caregiver training services shall be supervised by the following:

- (1) The individual whose family members or caregiver is receiving training.**
- (2) The provider of case management services to the individual.**

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-23-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 944*)

Rule 24. Services

460 IAC 1.1-24-1 Coordination of services and plan

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. (a) The case manager shall create a care plan for the individual that shall:

- (1) consist of a formal description of goals, objectives, and strategies, including:**
 - (A) desired outcomes; and**
 - (B) persons responsible for implementation; and**
- (2) be designed to enhance independence.**

(b) The provider shall assess the appropriateness of an individual's goals at least once every ninety (90) days as described in 460 IAC 1.1-19 of this article.

(c) All providers responsible for providing service to an individual shall:

- (1) coordinate the services provided to an individual; and**
- (2) share documentation regarding the individual's well-being;**

as required by the individual's care plan. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-24-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 944*)

Rule 25. Health Care Coordination Services

460 IAC 1.1-25-1 Provider of health care coordination services

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. Coordination of the health care for an individual shall be the responsibility of the provider identified in an individual's care plan as responsible for the health care of the individual. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-25-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 944*)

460 IAC 1.1-25-2 Coordination of health care

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. The provider identified in section 1 of this rule shall coordinate the health care received by the individual, including:

- (1) annual physical, dental, and vision examinations;**
- (2) routine examinations;**
- (3) routine screenings; and**
- (4) referrals to specialists;**

as ordered by the individual's health care practitioner. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-25-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 944*)

460 IAC 1.1-25-3 Documentation of health care services received by an individual

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. (a) The provider identified in section 1 of this rule shall maintain a personal file for each individual served.

(b) The individual's personal file shall contain the following information:

- (1) The date of health and medical services provided to the individual.**
- (2) A description of the health care or medical services provided to the individual.**
- (3) The signature of the person providing the health care or medical service for each date a service is provided.**
- (4) Additional information and documentation required in this rule, if applicable, including, but not limited to, documentation of the following:**
 - (A) An organized procedure for medication assistance.**
 - (B) An individual's refusal to take medication.**
 - (C) Monitoring of medication side effects.**
 - (D) Seizure tracking.**
 - (E) Changes in an individual's status.**
 - (F) An organized procedure of health-related unusual occurrence management.**
 - (G) If applicable to this provider, an investigation of the death of an individual.**

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-25-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 944*)

460 IAC 1.1-25-4 Organized procedure for assisting with medication administration required

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. (a) The provider identified in section 1 of this rule shall design an organized procedure of medication administration for the individual.

(b) The provider shall do the following:

- (1) Document the procedure in writing.**
- (2) Distribute the document to all providers assisting with medication to the individual.**

(c) The document shall be placed in the individual's file maintained by all providers administering medication to the individual. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-25-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 945*)

460 IAC 1.1-25-5 Individual's refusal to take medication

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 5. (a) If an individual refuses to take medication, the provider attempting to administer the medication shall do the following:

- (1) Document the following:**
 - (A) The name of the medication refused by the individual, if known.**

- (B) The date, time, and duration of the refusal.
- (C) A description of the provider's response to the refusal.
- (D) The signature of the person or persons observing the refusal.
- (2) Supply the documentation to the provider identified in section 1 of this rule.

(b) The provider identified in section 1 of this rule shall review the individual's refusal to take medication with the:
(1) individual's health care practitioner; and
(2) individual's support team;
to ensure the health and safety of the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-25-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 945)*

460 IAC 1.1-25-6 Investigation of death

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 6. (a) If an individual dies unexpectedly, an investigation into the death shall be conducted by the provider identified in section 1 of this rule, except as provided in subsection (b).

(b) If the provider identified in section 1 of this rule is a family member of the individual, then the provider of case management services to an individual shall conduct an investigation into the death of the individual.

(c) A provider conducting an investigation into the death of an individual shall meet the following requirements:

- (1) Notify by telephone the BAIHS or its designee central office in Indianapolis not later than twenty-four (24) hours after the death.
- (2) Notify adult protective services or child protection services, as applicable, not later than twenty-four (24) hours after the death.
- (3) Collect, coordinate with all providers, and review documentation of all events and unusual occurrences in the individual's life for at least the thirty (30) day period immediately before the:
 - (A) death of the individual;
 - (B) hospitalization in which the individual's death occurred; or
 - (C) individual's transfer to a nursing home in which death occurred within ninety (90) days of that transfer.
- (4) Document conclusions and make recommendations arising from the investigation.
- (5) Document implementation of any recommendations made under this section no later than fifteen (15) calendar days after the individual's death and send to the BAIHS or its designee the following:
 - (A) A completed notice of an individual's death on a form prescribed by the BAIHS.
 - (B) A final report that includes all documentation required by subdivisions (1) through (5) of this section for review by the division's mortality review committee.

(d) A provider shall respond to any additional requests for information made by the mortality review committee within seven (7) days of the provider's receipt of a request.

(e) A provider shall submit the documentation to the BAIHS to support the provider's implementation of specific recommendations made by the mortality review committee. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-25-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 945)*

Rule 26. Nutritional Counseling Services

460 IAC 1.1-26-1 Specialized diet program

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. (a) A provider of nutritional counseling services shall design and document a dining plan for an individual in accordance with the individual's care plan.

(b) An individual's dining plan shall include the following:

- (1) Any special dining needs of an individual.
- (2) Identification of swallowing difficulties.
- (3) Identification of risk of aspiration.
- (4) The need for adaptive equipment.

(c) A provider who has designed a dining plan for an individual shall provide assessment and oversight of the following:

- (1) The dining plan.
- (2) The person or persons implementing the dining plan.

(d) A provider shall follow any specialized diet program designed by the provider of nutritional counseling services to an individual, including any documentation requirements contained in the individual's dining plan. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-26-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 946)*

Rule 27. Personal Emergency Response System Supports

460 IAC 1.1-27-1 Warranty required

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. All personal emergency response system supports provided to an individual under this rule shall be warranted for at least ninety (90) days by the chosen and approved provider listed in the care plan. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-27-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 946)*

460 IAC 1.1-27-2 Documentation

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A provider of personal emergency response system supports shall maintain the following documentation regarding support provided to an individual:

- (1) The installation date of any device.
- (2) The maintenance date of any device.
- (3) Testing dates for the device to ensure proper working function.
- (4) Any change made to any device, including any:
 - (A) alteration;
 - (B) correction; or
 - (C) replacement.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-27-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 946)

Rule 28. Physical Environment

460 IAC 1.1-28-1 Environment shall conform to the individual's care plan

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. A provider designated in the individual's care plan as responsible for providing or assisting with environmental and living arrangement support for the individual shall ensure that an individual's physical environment conforms to the requirements of the following:

- (1) The individual's care plan.
- (2) This rule.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-28-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 946)

460 IAC 1.1-28-2 Safety of individual's environment

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. (a) A provider designated in the individual's care plan as responsible for providing or assisting with environmental and living arrangement support shall provide services in a safe environment that is as follows:

(1) Maintained in good repair, inside and out.

(2) Free from the following:

(A) Combustible debris.

(B) Accumulated waste material.

(C) Offensive odors.

(D) Rodent or insect infestation.

(b) The provider shall ensure the following:

(1) An assessment of the individual's environment is conducted every ninety (90) days.

(2) The results of the assessment are documented.

(c) If an environmental assessment determines that an environment is unsafe for an individual, the provider shall take the appropriate steps to ensure that the individual is safe, including the following, when appropriate:

(1) Filing an incident report for any unusual occurrence identified in 460 IAC 1.1-9.

(2) Working with the individual and the support team to resolve physical environmental issues.

(3) Contacting APS or CPS.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-28-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 946)

460 IAC 1.1-28-3 Monitoring an individual's environment

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. The provider designated in an individual's care plan as responsible for providing environmental and living arrangement support shall ensure that appropriate devices or home modifications, or both:

(1) are provided to the individual in accordance with the individual's care plan; and

(2) satisfy the federal Americans with Disabilities Act requirements and guidelines.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-28-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 946)

460 IAC 1.1-28-4 Compliance of environment with building and fire codes

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 4. (a) A provider designated in an individual's care plan as responsible for providing environmental and living arrangement support shall ensure that an individual's living areas comply with the requirements of this section.

(b) An individual's living areas shall meet Indiana code and local building requirements for single family dwellings or multiple family dwellings as applicable.

(c) An individual's living areas shall contain a working smoke detector or smoke detectors that are as follows:

(1) Tested at least once a month.

(2) Located in areas considered appropriate by the local fire marshal.

(d) An individual's living areas shall follow the requirements of the individual's care plan. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-28-4; filed Nov 4, 2004, 3:00 p.m.: 28 IR 947)*

460 IAC 1.1-28-5 Safety and security policies and procedures

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 5. (a) A provider designated in an individual's care plan as responsible for providing environmental and living arrangement support for the individual shall do the following:

(1) Maintain specific written safety and security policies and procedures for an individual.

(2) Train all employees or agents in implementing the policies and procedures.

- (b) The policies and procedures prescribed by subsection (a) shall include at least the following:
- (1) When and how to notify law enforcement or emergency response agencies in an emergency or crisis.
 - (2) Scheduling and completion of evacuation drills.
 - (3) Adopting procedures that shall be followed in an emergency or crisis, such as:
 - (A) a tornado;
 - (B) a fire;
 - (C) a behavioral unusual occurrence;
 - (D) an elopement; or
 - (E) inclement weather.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-28-5; filed Nov 4, 2004, 3:00 p.m.: 28 IR 947)

460 IAC 1.1-28-6 Safety and security training

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 6. (a) A provider designated in an individual's care plan as responsible for providing environmental and living arrangement support shall provide training to the:

- (1) provider's employees or agents; and
 - (2) individual in the individual's mode of communication;
- concerning procedures to be followed in an emergency or crisis.

- (b) The training prescribed by subsection (a) shall include the following:
- (1) Evacuation procedures.
 - (2) Responsibilities during drills.
 - (3) The designated meeting place outside the site of service delivery in an emergency requiring evacuation.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-28-6; filed Nov 4, 2004, 3:00 p.m.: 28 IR 947)

460 IAC 1.1-28-7 Individual's inability to follow safety and security procedures

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 7. If an individual is medically or functionally unable to follow procedures for dealing with an emergency or crisis, the provider of environmental and living arrangement support shall document the following in writing:

- (1) That the individual is unable to follow emergency or crisis procedures.
- (2) The provider's plan for support of the individual in an emergency or crisis.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-28-7; filed Nov 4, 2004, 3:00 p.m.: 28 IR 947)

460 IAC 1.1-28-8 Emergency telephone numbers

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 8. (a) A provider designated in an individual's care plan as responsible shall ensure that an emergency telephone number list is located:

- (1) in an area visible from the telephone used by an individual; or
- (2) as indicated in the individual's care plan.

- (b) The emergency telephone list shall include the following:
- (1) Information given to the individual by the individual's provider of case management services.
 - (2) The local emergency number, for example, 911.
 - (3) The telephone number of the individual's legal representative or advocate if applicable.
 - (4) Any telephone numbers specified in the individual's care plan, including, but not limited to, telephone numbers for the following:
 - (A) The local area agency on aging office.
 - (B) The provider of case management services to the individual.
 - (C) Adult protective services or child protection services as applicable.

(D) The long term care ombudsman.

(E) DDARS designated complaint number.

(F) Any other service provider identified in the individual's care plan.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-28-8; filed Nov 4, 2004, 3:00 p.m.: 28 IR 947)

Rule 29. Respite Care Services

460 IAC 1.1-29-1 Documentation required by all providers

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. (a) A provider of respite care services shall maintain chronological documentation of the services provided for an individual.

(b) The documentation shall include, but is not limited to, the following:

(1) The date and duration of respite care services provided.

(2) The signature of the person providing respite care services.

(3) The location and setting where the respite care service was provided.

(4) The reason for the respite services.

(c) Documentation shall be updated, reviewed, and analyzed whenever respite care services are provided. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-29-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 948)*

Rule 30. Specialized Medical Equipment and Supplies Supports

460 IAC 1.1-30-1 Warranty required

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. All specialized medical equipment and supplies supports provided to an individual under this rule shall be warranted for at least ninety (90) days. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-30-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 948)*

460 IAC 1.1-30-2 Documentation required

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A provider of specialized medical equipment and supplies supports shall maintain the following documentation regarding support provided to an individual:

(1) The installation date of any adaptive aid or device, assistive technology, or other equipment.

(2) The maintenance date of any adaptive aid or device, assistive technology, or other equipment.

(3) Any change made to any adaptive aid or device, assistive technology, or other equipment, including any:

(A) alteration;

(B) correction; or

(C) replacement.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-30-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 948)

Rule 31. Speech-Language Therapy Services

460 IAC 1.1-31-1 Supervision required

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. Any speech-language pathology aide providing speech-language services under this article shall provide services under the direct supervision of a speech pathologist approved under this article. *(Division of Disability, Aging, and*

Rehabilitative Services; 460 IAC 1.1-31-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 948)

Rule 32. Transportation Services

460 IAC 1.1-32-1 Valid driver's license required

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. A provider of transportation services shall ensure that an individual is transported only by a person who has a valid:

- (1) operator's license;**
- (2) chauffeur's license;**
- (3) public passenger chauffeur's license; or**
- (4) commercial driver's license;**

that is issued to the person by an appropriate bureau of motor vehicles to drive the type of motor vehicle for which the license was issued. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-32-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 948)*

460 IAC 1.1-32-2 Vehicle requirements

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. A provider of transportation services shall ensure that an individual is transported only in a vehicle:

- (1) maintained in good repair;**
- (2) properly registered with a bureau of motor vehicles; and**
- (3) insured as required under Indiana law.**

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-32-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 948)

460 IAC 1.1-32-3 Vehicle liability insurance

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 3. (a) A provider of transportation services shall secure sufficient liability insurance for all vehicles:

- (1) owned or leased by the provider; and**
- (2) used for the transportation of an individual receiving services.**

(b) The liability insurance required by subsection (a) shall cover:

- (1) personal injury;**
- (2) loss of life; and**
- (3) property damage;**

to an individual if the loss, injury, or damage occurs during the provision of transportation services to the individual by the provider. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-32-3; filed Nov 4, 2004, 3:00 p.m.: 28 IR 949)*

Rule 33. Code of Ethics

460 IAC 1.1-33-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 1. This rule applies to all home and community based services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-33-1; filed Nov 4, 2004, 3:00 p.m.: 28 IR 949)*

460 IAC 1.1-33-2 Code of ethics

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-1; IC 12-10-10

Sec. 2. All providers, in the provision of services under this article, shall abide by the code of ethics in this section. A

provider shall do the following:

- (1) Provide professional services with objectivity and with respect for the unique needs and values of the individual being provided services.
- (2) Avoid discrimination on the basis of factors that are irrelevant to the provision of services, including, but not limited to, the following:
 - (A) Race.
 - (B) Creed.
 - (C) Gender.
 - (D) Age.
 - (E) Disability.
- (3) Provide sufficient objective information to enable an individual, or the individual's guardian, to make informed decisions.
- (4) Accurately present professional qualifications and credentials.
- (5) Accurately present professional qualifications of all employees or agents.
- (6) Require all employees or agents to assume responsibility and accountability for personal competence in the practice of the person's profession and in the provision of services under this article.
- (7) Require employees or agents to maintain knowledge and skills required for continued professional competence including all requirements necessary for a licensed or accredited professional to maintain the professional's licensure or accreditation.
- (8) Require professional, licensed, or accredited employees or agents to adhere to acceptable standards for the employee or agent's area of professional practice.
- (9) Require employees or agents to comply with all laws and regulations governing a licensed or accredited professional's profession.
- (10) Require all employees or agents to maintain the confidentiality of individual information consistent with the standards of this article and all other laws and regulations governing confidentiality of individual information.
- (11) Require all employees or agents to conduct all practice with honesty, integrity, and fairness.
- (12) Require all employees or agents to fulfill professional commitments in good faith.
- (13) Require all employees or agents to inform the public and colleagues of services by use of factual information.
- (14) Not advertise or market services in a misleading manner.
- (15) Not engage in uninvited solicitation of potential clients who are vulnerable to undue influence, manipulation, or coercion.
- (16) Make reasonable efforts to avoid bias in any kind of professional evaluation.
- (17) Notify the appropriate party, which may include:
 - (A) DDARS;
 - (B) the Indiana state department of health;
 - (C) a licensing authority;
 - (D) an accrediting agency;
 - (E) an employer; and
 - (F) the office of the attorney general, consumer protection division;of any unprofessional conduct that may jeopardize an individual's safety or influence the individual or individual's representative in any decision making process.
- (18) Develop a written policy for the prevention of conflict of interest.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1.1-33-2; filed Nov 4, 2004, 3:00 p.m.: 28 IR 949)

LSA Document #03-245(F)

Notice of Intent Published: October 1, 2003; 27 IR 209

Proposed Rule Published: June 1, 2004; 27 IR 2798

Hearing Held: June 22, 2004

Approved by Attorney General: October 4, 2004

Approved by Governor: November 3, 2004

Filed with Secretary of State: November 4, 2004, 3:00 p.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher