



ADMINISTRATIVE RULES OF MONTANA



37.34.102 DEFINITIONS

For purposes of this chapter, the following definitions apply:

- (1) "Abuse" means the infliction of physical or mental injury or the deprivation of food, shelter, clothing or services necessary to maintain the physical or mental health of an older person or a person with a developmental disability without lawful authority, as described in 52-3-803, MCA. A declaration made pursuant to 50-9-103, MCA constitutes lawful authority.
- (2) "Advocate" means a person who:
 - (a) represents the interests and rights of a person receiving services consistent with the person's interests;
 - (b) is not an employee of any agency directly providing services to the person receiving services; and
 - (c) who is acknowledged by the person receiving services to be the person's advocate currently.
- (3) "Applicant" means a person who applies for services, but is not yet accepted into a service program.
- (4) "Board" means three meals a day or any other full nutritional regimen. A meal furnished as part of an adult day care program is not considered board.
- (5) "Case manager" means the person, employed by either a contractor or the division, who assesses individual service needs, assists individuals to access services, coordinates the planning process, monitors services delivered, and provides crisis management.
- (6) "Contract" means any contractual agreement, inclusive of appendices and other duly incorporated writings, for the delivery of services to persons with developmental disabilities entered into by the department with the contractor.
- (7) "Contractor" or "provider" means any person or entity providing developmental disabilities services to persons with developmental disabilities through a contract with the department.
- (8) "Developmental disabilities services" means the state program of services for persons with developmental disabilities managed through the developmental disabilities program of the department.
- (9) "Person with a developmental disability" or "developmentally disabled person" means a person who has a developmental disability as defined in 53-20-202(3), MCA.

- (10) "Direct care staff" means a person employed by a contractor in a position the duties of which focus on the hands on delivery of services to persons with developmental disabilities or to their families or both. Direct care tasks include: monitoring and delivering basic life and health care needs, implementing programs, intervening when maladaptive behaviors occur, recording progress toward meeting goals and objectives, documenting incidents, and sharing information with supervisory staff or other professionals according to the policies and procedures of the contractor. In outreach services, direct care tasks may include conducting home visits and providing specialized instruction to family members in the implementation of programs to meet individual needs.
- (11) "Program" means the developmental disabilities program of the department of public health and human services.
- (12) "Emergency response system" means a system which can be efficiently operated by staff or where appropriate, individuals, that ensures the safety of the people in the home or the facility in an emergency. The system includes well-rehearsed emergency procedures for the people living and working in the facility. The system includes, in addition to emergency response measures, a reliable means of communicating with on-call staff and other people who are available in the event of an emergency. The means of communication may include an immediate electronic access to ambulance, fire department, medical staff, police and other staff within the corporation.
- (13) "Evaluation" means a process for making determinations regarding whether disabling conditions are present, determining individual needs and making specific recommendations or selecting treatment alternatives to address those needs.
- (14) "Exploitation" means the unreasonable use of an older person or a person with a developmental disability, the person's money or the person's property to the advantage of another by means of duress, menace, fraud or undue influence.
- (15) "Family" means natural parents, adoptive parents, foster parents, grandparents, guardians, stepparents, or others with whom a child lives and non-custodial parents and other persons who are legally responsible for the child's welfare.
- (16) "Habilitation" means the process to assist a person with developmental disabilities in acquiring and maintaining those life skills which enable the person to cope more effectively with the demands of the environment and to improve physical, mental and social efficiency. Habilitation includes, but is not limited to, formal structured education and treatment.
- (17) "Incidents" means significant events, acts or omissions not otherwise permitted which result or may result in physical or emotional harm to an individual or which intentionally deprive an individual of acknowledged rights, including, but not limited to:
- (a) death;
 - (b) harm or illness requiring hospitalization;
 - (c) complaints or illness of an extended nature;
 - (d) harm of a staff member due to actions of an individual;
 - (e) suicide attempts;
 - (f) a substantial change in residential or work placement without approval of the individual planning team;

- (g) alleged unlawful activities by or affecting an individual;
 - (h) abuse, exploitation, neglect or sexual abuse;
 - (i) rights violations;
 - (j) an unaccounted for absence;
 - (k) significant property damage; or
 - (l) any behavior requiring the use of an emergency procedure as provided for in ARM 37.34.1401 et seq.
- (18) "Integrated/inclusive community activities" means enjoyable activities that provide an individual with opportunities to participate with other members of the community.
- (19) "Leisure activities" means enjoyable recreational and other activities in which an individual may actively participate.
- (20) "Neglect" means the failure of a guardian; an employee of a public or private residential institution, facility, home or agency; or any person legally responsible in a residential setting for the welfare of an older person or a person with a developmental disability to provide, to the extent of legal responsibility, food, shelter, clothing or services necessary to maintain the physical or mental health of the older person or the person with a developmental disability.
- (21) "Organized health care delivery systems" means an organized system of health care delivery which allows for both the direct provision of health care services as well as contracting with other qualified providers to furnish services required by an individual's plan of care.
- (22) "Plan of care" means a written plan identifying the supports and services that are necessary to achieve independence, dignity, and personal fulfillment, developed for a person with developmental disabilities by the planning team on the basis of a skill assessment and determination of the strengths and needs of the person.
- (23) "Planning team" means an interdisciplinary team composed of those persons specified in ARM 37.34.1107 that identifies and evaluates the needs of a person receiving services, develops a plan of care to meet those needs, periodically reviews the person's response to the plan and revises the plan accordingly.
- (24) "Portability" means providing for contract funds used to support the individual in the current placement to be transferred to a new service contractor when an individual receiving services moves to another geographical area of the state or obtains services from another qualified provider contract.
- (25) "Positive behavior support" means the application of a variety of behavior modification procedures and techniques to change undesirable behaviors, with an emphasis on minimizing the use of punishers and aversive programming.
- (26) "Regional manager" means a person employed by the developmental disabilities program in one of five field-based supervisory positions.
- (27) "Room" means shelter type expenses including all property related costs such as rental or purchase of real estate and furnishings, maintenance, utilities and related administrative services.

- (28) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct or incest, as described in Title 45, chapter 5, part 5, MCA.
- (29) "Standards" means criteria developed by various sources and used by the department for the purpose of judging the adequacy of the quality and extent of service provided by providers to persons with developmental disabilities.

Authorizing statute(s): 53-2-201, 53-20-204, MCA

Implementing statute(s): 53-20-203, 53-20-204, 53-20-205, MCA

History: NEW, 1979 MAR p. 1708, Eff. 12/28/79; AMD, 1981 MAR p. 628, Eff. 6/26/81; AMD, 1985 MAR p. 1156, Eff. 8/16/85; AMD, 1986 MAR p. 345, Eff. 4/21/86; AMD, 1988 MAR p. 1007, Eff. 5/27/88; AMD, 1988 MAR p. 1895, Eff. 8/26/88; AMD, 1993 MAR p. 1353, Eff. 6/25/93; AMD, 1995 MAR p. 1136, Eff. 6/30/95; TRANS, from SRS, 1998 MAR p. 3124; AMD, 2013 MAR p. 165, Eff. 2/1/13.