

Title 20. Public Health and Welfare

Chapter XIV. Division of Developmental Disabilities Services, Department of Human Services

Subchapter A. Generally

Part 530. Human Development Center Admission and Discharge Rules

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "Policy No. 1086"

Subpart 1. Generally

20 CAR § 530-101. Policy.

(a) This part replaces existing policies in order to clarify that admission and continued residence at human development centers is limited to eligible individuals who need and can benefit from care and active treatment at an intermediate care facility for individuals with developmental/intellectual disabilities.

(b) This part establishes guidelines for discharge of individuals from the human development centers operated by the Division of Developmental Disabilities Services.

(c) This part applies to all applicants for and recipients of human development center services regardless of whether the applicant or recipient is Medicaid eligible.

Authority. Arkansas Code §§ 20-48-205, 20-48-210, 20-48-415.

20 CAR § 530-102. Definitions.

As used in this part:

(1) "Active treatment" means a continuous program of aggressive, consistent, specialized and generic training, treatment, health services, and related services described in 42 C.F.R. § 483.440(a);

(2) "Adverse determination" means a Division of Developmental Disabilities Services determination of an individual's written application for or opposition to:

(A) Eligibility for Division of Developmental Disabilities Services services;

or

(B) HDC admission, transfer, or discharge that is contrary to the individual's written application or opposition;

(3) "Annual status review" means a review conducted at least at twelve-month intervals after admission to:

(A) Assess the client's status;

(B) Review and, if necessary, recommend changes to the client's program plan; and

(C) Determine the client's continued HDC eligibility;

(4) "Disability" means the deprivation of physical or mental capacity;

(5) "Emergency" means unforeseen life-threatening circumstances that necessitate immediate HDC placement because no other safe alternatives are available;

(6) "Human development center (HDC)" means a state-operated intermediate care facility (ICF) for individuals with developmental/intellectual disabilities that provides residential care and active treatment services to eligible developmentally disabled individuals;

(7)(A) "Independent assessment" means a standardized functional assessment performed by a third-party vendor to determine eligibility of Division of Developmental Disability Services services based on a person's individual needs.

(B) See Arkansas Independent Assessment Provider Manual, 20 CAR pt. 607;

(8)(A) "Interdisciplinary team" means a team constituted and functioning in accordance with 42 C.F.R. pt. 483.

(B) For purposes of admission and the annual status review, the interdisciplinary team shall include a licensed physician;

(9) "Primary diagnosis" means a licensed physician's opinion of the individual's primary disability;

(10) "Primary disability" means the condition having the greatest impact on the individual's ability to function;

(11) "Psychological team" means the Division of Developmental Disabilities Services' psychological examiner who determines intermediate level of care (ICF) for individuals with developmental/intellectual disabilities; and

(12)(A) "Transfers" means when an HDC resident is admitted to another HDC.

(B) "Transfers" shall be accomplished by application for admission to the second HDC.

(C) If the application is approved, the individual shall be discharged from the first HDC at the time the individual is transported to the second HDC (see Division of Developmental Disabilities Services' Policy 1036, HDC Transfers).

Authority. Arkansas Code §§ 20-48-205, 20-48-205, 20-48-205, 20-48-210, 20-48-210, 20-48-210, 20-48-415, 20-48-415, 20-48-415.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "II. SUBSTANTIVE RULES:"

20 CAR 530-103. Eligibility for division services.

(a)(1) Developmental disability diagnoses include cerebral palsy, epilepsy, autism, Down Syndrome, and spina bifida as categorically qualified diagnoses.

(2) Other diagnoses will be considered if the condition causes the person to function as though they have an intellectual disability.

(3) Division of Developmental Disabilities Services' eligibility is established by Arkansas Code § 20-48-101.

(b) The division interprets a developmental disability to be:

(1) A categorically qualifying diagnosis; and

(2)(A) Significant adaptive behavior deficits related to this diagnosis.

(B) Adaptive functioning deficits are defined as an individual's inability to function in three (3) of the following six (6) categories as consistently measured by standardized instruments administered by qualifying professionals:

(i) Self care;

- (ii) Understanding the use of language;
- (iii) Learning;
- (iv) Mobility;
- (v) Self direction; and
- (vi) Capacity for independent living.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "II. SUBSTANTIVE RULES:"

20 CAR § 530-104. Categorically qualifying diagnoses.

(a)(1)(A) "Developmental disability" means an impairment of general intellectual functioning or adaptive behavior.

(B) For individuals over age five (5), developmental disability is established by scores of intelligence on standardized intelligence tests administered by a legally qualified professional.

(C) For individuals ages three through five (3 – 5), developmental disability is established by a standardized assessment evidencing that the applicant functions on a level two (2) or more standard deviations from the mean in two (2) or more areas.

(D) For individuals ages zero to thirty-six (0 – 36) months, developmental disability is established by a standardized assessment instrument assessing cognition, communication, social/emotional, motor, and adaptive that yields scores in months and that evidences a twenty-five percent (25%) delay.

(2) The delay is attributable to:

(A)(i) Intellectual disability, cerebral palsy, epilepsy, autism, spina bifida, or Down Syndrome as established by significant intellectual limitations that exist concurrently with deficits in adaptive behavior that are manifested before the age of twenty-two (22).

(ii) "Significant limitations" means a full-scale intelligence score of approximately seventy (70) or below as measured by a standard test:

(a) Infant/preschool, zero to five (0 – 5) years, as established by developmental scales administered by qualified personnel authorized in the manual accompanying the instrument used, which indicate impairment of general functioning similar to that of a developmentally disabled person;

(b) Cerebral palsy, as established by the results of a medical examination provided by a licensed physician;

(c) Epilepsy, as established by the results of a neurological examination provided by a licensed physician;

(d) Autism, as established by the results of a team evaluation including at least a licensed physician, a licensed psychologist or psychological examiner, and a licensed speech pathologist;

(e) Spina bifida, as established by the results of a medical examination provided by a licensed physician; and

(f) Down Syndrome, as established by the results of a medical examination provided by a licensed physician.

(iii)(a) **Note.** Each of these four (4) conditions is sufficient for determination of eligibility independent of each other.

(b) This means that a person who is intellectually disabled does not have autism, epilepsy, cerebral palsy, Down Syndrome, or spina bifida.

(c) Conversely, a person who has autism, cerebral palsy, epilepsy, spina bifida, or Down Syndrome does not have to have a diagnosis of intellectual disability to receive services;

(B)(i) Any other condition of a person found to be closely related to intellectual disabilities because the results in impairment of general intellectual functioning or adaptive behavior are similar to those of persons with intellectual disabilities or requires treatment and services similar to those required for such persons.

(ii) This determination must be based on the results of a team evaluation including at least a licensed physician and a licensed psychologist; or

(C) Dyslexia resulting from intellectual disability, cerebral palsy, epilepsy, spina bifida, Down Syndrome, or autism by the results of a team evaluation including at least a licensed physician and a licensed psychologist.

(b) The disability must originate prior to the date the person attains the age of twenty-two (22).

Authority. Arkansas Code §§ 20-48-205, 20-48-210, 20-48-415.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "II. SUBSTANTIVE RULES:"

20 CAR § 530-105. Eligibility for human development center admission.

(a) In order to be eligible for admission, the individual must be:

- (1) Eligible for developmental disabilities services;
- (2) In need of and able to benefit from active treatment; and
- (3) Unable to access appropriate and adequate developmental disabilities services in a less restrictive alternative.

(b)(1) Admissions and discharges shall be conducted in accordance with any delegations of authority by the Board of Developmental Disabilities Services.

(2) Admissions shall conform to Arkansas Code §§ 20-48-404 – 20-48-407.

(3) Discharges shall conform to Arkansas Code § 20-48-412.

(4) Admissions, transfers, and discharges shall conform to 42 C.F.R. § 483.440.

(c)(1) Each individual must undergo an independent assessment and be determined Tier 3 level of need.

(2) Each HDC may have additional specific criteria, age, activity, etc., regarding admission.

(3) People less than eighteen (18) years of age may be determined appropriate for HDC admission if one (1) of the following issues is confirmed by the

HDC interdisciplinary team based upon current evaluations after a determination of eligibility:

(A) Existing maladaptive behaviors prevented the individual from successfully residing in a less restrictive setting without endangering the health and safety of the individual or others; or

(B) The human development center's treatment and therapies are medically necessary due to the individual's physical disabilities.

(d) Regardless of age, the Division of Developmental Disabilities Services will consider for admission any individual who is eligible for ICF/IID level of care once a determination has been made that admission is in the best interest of the individual and their needs cannot at the current time be met in the community.

(e) **Retention.** In order to remain in residence at an HDC, the annual status review conducted by the interdisciplinary team must establish that the client remains eligible for admission.

Authority. Arkansas Code §§ 20-48-205, 20-48-210, 20-48-415.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "II. SUBSTANTIVE RULES:"

"ICF/IID" means intermediate care facility for individuals with intellectual disabilities.

20 CAR § 530-106. Criteria for discharge from human development center.

(a) Consideration for a discharge may be given upon the recommendation of the:

- (1) Individual's interdisciplinary team; or
- (2) Office of Long-Term Care Inspection of Care Team.

(b) Discharge will be given upon:

- (1) The request of a competent adult individual, the individual's parent/guardian or legal representative if he or she is a minor, or according to the

specific provisions of the individual's guardianship and/or power of attorney document;
or

(2) Even without a request for discharge, an HDC superintendent must discharge an individual upon determination by HDC professionals that the individual is no longer eligible for admission or retention, i.e., that he or she is no longer in need of and able to benefit from active treatment provided at the HDC and is able to access appropriate and adequate services in another setting.

Authority. Arkansas Code §§ 20-48-205, 20-48-210, 20-48-415.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "II. SUBSTANTIVE RULES:"

20 CAR § 530-107. Human development center referral process.

(a) When a Division of Developmental Disabilities Services service specialist receives a request for HDC placement, he or she will give the applicant a six-part initial application which includes:

- (1) Information letter;
- (2) Choice Form 102;
- (3) Social history;
- (4) Department of Human Services Form 703 (Evaluation of Medical Need Criteria);
- (5) Areas of Need Form; and
- (6) Results of the independent assessment.

(b)(1) The applicant will return the initial application to the division service specialist.

(2) Once the specialist receives the completed initial application, the initial application will be sent to the division Eligibility Review Team for ICF eligibility determination.

(3) Once determination has been made, the division Eligibility Review Team will notify the division Intake and Referral Program Administrator of the individual determined eligible.

(4) Notice of ineligibility of individual who is determined not to meet the ICF/IID eligibility requirement will be sent by the Director of the Division of Developmental Disabilities Services or designee as well as the division's rule Appeals, 20 CAR pt. 544.

(5)(A) The Intake and Referral Unit Program Administrator will schedule a review within five (5) working days of notice of the applicant's ICF eligibility with the division Appropriate Placement Review Team (APRT), which is comprised of the Intake and Referral Program Administrator, Program Manager, and the HDC admission coordinators.

(B) The team will determine the appropriateness of the applicant for HDC services.

(C) Once a decision has been made, the APRT will complete the Review of Referral for Placement Form.

(D) On the review, the team will document if the preliminary decision is one (1) of the following:

(i)(a) The APRT has reviewed this initial application and has determined that this client is appropriate for placement and a vacancy exists at this time.

(b) If the applicant is appropriate for placement and there is an appropriate vacancy, the applicant will be informed of the vacancy and asked to complete the formal application process through his or her division service specialist.

(c)(1) After the APRT determines a client appropriate for placement, the director or designee may allow an emergency respite placement if it is necessary to ensure the client's health and safety prior to the independent assessment.

(2) However, the client must be referred for the independent assessment.

(3) A client will not be admitted to an HDC without the results of the independent assessment.

(4) The independent assessment must be completed within thirty (30) days of referral; or

(ii)(a) The APRT has reviewed this initial application and has determined that this client is not appropriate for HDC placement.

(b) If the applicant is not appropriate for HDC placement, the applicant will be informed of the right to reconsideration under 20 CAR pt. 544.

(c) Applicants may appeal a denial decision through the director or his or her designee.

(c) The completed Review of Referral for Placement Form will be sent by the division Program Manager of Adult Services Intake to the applicant and/or legal representative and his or her division service specialist.

Authority. Arkansas Code §§ 20-48-205, 20-48-210, 20-48-415.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "III. PROCEDURAL RULES
Perspective Eligibility Guidelines"

"ICF/IID" means intermediate care facility for individuals with intellectual disabilities.

20 CAR § 530-108. Human development center admission process.

(a)(1) Once a vacancy becomes available, the HDC admission coordinator will notify the appropriate Division of Developmental Disabilities Services specialist and the applicant and/or legal representative, and the formal application packet will be completed.

(2) In order to be considered, the packet must contain:

(A) An application for HDC services;

- (B) Authorization to Disclose Health Information (Department of Human Services Form 4000);
- (C) Freedom of Choice Form (102);
- (D) A cover memo by the individual's division children service specialist or adult service specialist stating the reason or reasons for the referral and the specialist's impressions and recommendations;
- (E) A current medical evaluation signed by a physician;
- (F)(i) Physical therapy, occupational therapy, and speech therapy evaluations that are relevant to the reason or reasons for the referral.
 - (ii) Evaluations must be completed within the preceding twelve (12) months;
- (G)(i) A psychological evaluation including intellectual functions levels and adaptive behavior scale.
 - (ii) The evaluation must be completed within the preceding twelve (12) months;
- (H) The results and report of the independent assessment performed by the third-party vendor; and
- (I)(i) A written social history completed within the preceding ninety (90) days by the individual's division specialist.
 - (ii) The social history shall include:
 - (a) A description of the individual's immediate situation and need for services, relating those needs to the services provided by the HDC;
 - (b) A general and behavioral description of the individual;
 - (c) A family status and profile;
 - (d) A developmental history;
 - (e) Medical status signed by a physician and stating the individual's current problems including general medical, vision, dental, hearing, medications and treatments, allergies, and any communicable diseases;
 - (f) Diet requirements;

(g) Financial questionnaire completed within the preceding twelve (12) months;

(h) History of agency and professional contacts and outcomes, including without limitation reports, evaluations, and discharge summaries;

(i) Review of alternate placement options and efforts;

(j)(1) For school age applicants, a copy of the most recent individualized education plan.

(2) For others, program plans established by current and past providers of developmental disabilities services; and

(k) A determination by a physician other than the physician on the individual's interdisciplinary team that the individual qualifies for and is in need of human development center services.

(b) Field service review of formal application packet.

(1) The applicant's service specialist will compile the formal admission packet and send it to the division Program Manager.

(2)(A) Within five (5) business days of receiving the packet, the division Program Manager will review the packet to determine if the packet is complete.

(B) If the packet is incomplete, the division Program Manager will notify the service specialist that the packet is incomplete.

(C) If the packet is complete, the division Program Manager will send the packet to the HDC admission coordinator for review.

(c) Human development center review.

(1) The HDC admission team and/or interdisciplinary team will review each formal referral packet within five (5) business days of receipt and determine if the individual remains appropriate for admission.

(2)(A) If the team determines that the individual is now inappropriate for placement there, the HDC will notify the applicant of the determination.

(B) The notice must state the reason for inappropriate placement at its center and explain the individual's right to appeal.

(C) If the team determines that the individual remains appropriate for placement at the center, the team will make a recommendation as to the appropriateness of admission to the HDC superintendent.

(D)(i) The HDC superintendent will determine whether to admit each eligible individual and will notify the applicant and the service specialist of the decision.

(ii) If the admission is denied, the notice must state the reason for the denial and explain the applicant's right to appeal.

(d) **Admission requirements.** Upon receiving notification of admission, the applicant's service specialist will furnish the following to the HDC:

- (1) Copy of birth certificate;
- (2) Copy of Social Security card or valid Social Security number;
- (3) Copy of Medicaid card or verification of insurance, if any;
- (4) Completed Agreement to Pay worksheet;
- (5) Copy of immunization history;
- (6) Copy of the results of a tuberculosis test performed within two (2) weeks prior to admission;
- (7) Copy of the results and report of the independent assessment and tier determination for the individual;
- (8) Copy of the results of a physical examination, including any diagnosis made by the examining physician, performed within the preceding thirty (30) days;
- (9) Letters of acknowledgement from the local education agency for individuals who have not completed high school and are under twenty-two (22) years old, certificate of completion/high school diploma, and/or GED; and
- (10) All court orders rendered in connection with the individual's custody, guardianship, or adoption proceedings, if any.

(e) The HDC admission coordinator will work with the applicant and division specialist on admission arrangements.

(f) **Admission.**

(1) Upon successful completion of preadmission requirements, the HDC admission coordinator will schedule an admission date and notify the division service specialist of any diagnostic and evaluation assistance available.

(2) The division specialist will contact the applicant and offer to assist in admission.

(g) Periodic reviews and independent assessment.

(1) Evaluations, assessments, and periodic reviews shall conform to 42 C.F.R. § 483.400 et seq.

(2) Each client shall have an annual status review, which will occur more often than annually if warranted.

(3) The independent assessment will be conducted prior to admission.

Authority. Arkansas Code §§ 20-48-205, 20-48-210, 20-48-415.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "III. PROCEDURAL RULES
Perspective Eligibility Guidelines"

"GED" means General Educational Development test.

20 CAR § 530-109. Human development center emergency referral.

(a)(1) Service specialists may make emergency referrals to the Division of Developmental Disabilities Services Program Manager.

(2) The service specialist shall include information explaining why an emergency exists, and why no other care or placement options are available.

(3)(A) The service specialist shall also include the information required in a formal referral packet to the extent such information exists and is available.

(B) At a minimum, the emergency referral packet should include:

(i) The results of a physical examination conducted within the previous thirty (30) days and signed by the examining physician;

(ii) A statement signed by a physician listing any communicable diseases that the individual is known to have;

(iii) Copies or a list of the individual's current prescribed medications;

and

(iv) A physician's determination that the individual qualifies for and is in need of HDC services on an emergency basis.

(b) If the individual is admitted:

(1) The service specialist should attempt to obtain the individual's current medications and provide those to the HDC when the individual is transported to the facility; and

(2)(A) Emergency admission is temporary.

(B) During the emergency admission, the service specialist will seek other placement options and will be in contact by telephone or email with the HDC admission coordinator at least weekly in order to ascertain the individual's status.

Authority. Arkansas Code §§ 20-48-205, 20-48-210, 20-48-415.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "III. PROCEDURAL RULES
Perspective Eligibility Guidelines"

20 CAR § 530-110. Human development center discharge process.

(a) **Court-ordered admission.** If the individual is receiving services due to a court order, the individual or the individual's guardian/legal representative must obtain a discharge order from the court that ordered admission.

(b) **Other admission.** If the individual was admitted other than under court order:

(1) Discharge planning begins upon admission; and

(2) Within ten (10) business days of a determination that an individual will be discharged:

(A) The HDC admission coordinator or designee will notify the local education agency (LEA), if any, that serves the individual of the planned discharge; and

(B) The HDC admission coordinator or designee will provide the following information to the individual or the individual's guardian:

(i) A summary of the interdisciplinary team's recommendations for developmental disabilities services and placements;

(ii) A description of developmental disabilities services, e.g., LEA, day services, etc., that may be available to the individual, including addresses and phone numbers of contact persons for the providers of such services;

(iii) The name, postal address, email address, and phone number of the Division of Developmental Disabilities Services service specialist servicing the area where the individual plans to live;

(iv) If available, the option of leave status as an alternative to discharge;

(v) An explanation of the procedures to apply for readmission to an HDC; and

(vi)(a) A copy of the division rule Appeals, 20 CAR pt. 544, that outlines reconsideration to the Director of the Division of Developmental Disabilities Services.

(b) The director or designee is the final decision maker regarding discharge.

(c) Upon discharge and relocation of the individual from the HDC:

(1) The HDC designee completes a discharge summary within ten (10) days of discharge;

(2)(A) A copy of the discharge summary is provided to the individual, parent, guardian, or legal representative and division service specialist.

(B) Discharge notification is provided to the LEA, if appropriate;

(3) Within five (5) business days of notification of the discharge, the division service specialist contacts the individual and/or legally responsible party to offer choice of available services, providers, and/or PASSE entity;

(4)(A) Within seventy-two (72) hours post discharge, initial contact by HDC social worker or assigned staff is made with the individual and/or parent, guardian, or legal representative.

(B) Follow-up contact continues for six (6) months either via telephone or written correspondence; and

(5) Within five (5) days of notification of the discharge, the division specialist will refer the individual to the third-party vendor for an independent assessment.

Authority. Arkansas Code §§ 20-48-205, 20-48-210, 20-48-415.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "III. PROCEDURAL RULES
Perspective Eligibility Guidelines"

"PASSE" means Provider-Led Shared Savings Entity.