

18 V.S.A. Chapter 204: Developmental Disabilities Act

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Chapter Overview

- Enacted in 1995, amended in 2005 and 2013
- Funding: DD services are funded predominantly by Medicaid; DAIL receives funds and distributes to the DAs/SSAs and an independent contractor for services in individualized approved plans that are adopted in accordance with the system of care plan
- DAIL's coordination, administration, and monitoring of the program is governed by a list of departmental duties (§8723), principles of service (§8724), recipient rights (§8728), and recommendations of the advisory board (§8733)
- Central aspect of DAIL's duties is creation of system of care plan every 3 years, which dictates nature, extent, allocation, and timing of services (§8725)
- Chapter also governs: applications for services (§8726), complaint and appeals processes (§8727), family support payments (§8729), rulemaking (§§8730 and 8732), staff training (§8731)

§ 8721. Purpose

- Each citizen with a development disability shall have the following opportunities:
 - Live in safe environment with respect and dignity
 - Live with family or in home of individual's choice
 - Make choices that impact individual's life
 - Attend neighborhood schools, be employed, and participate in activities (to the extent this is not construed to alter or extend rights or responsibilities of federal laws relating to special education)
 - Access to community supports and services available to other citizens

§ 8723. DAIL's Duties

- DAIL required to “plan, coordinate, administer, monitor and evaluate State and federally funded services for people with developmental disabilities and their families....” This includes responsibility for coordinating efforts of all agencies and services to promote and improve lives of individuals with developmental disabilities. Within available resources, DAIL shall:
 - Promote principles of service through collaboration/consultation with people with developmental disabilities, families, guardians, community resources, organizations, services providers;
 - Develop, maintain, and monitor an equitably and efficiently allocated statewide system of community-based services;
 - Exercise fiscal oversight over funding for community-based services;
 - Identify resources and legislation needed to maintain system;
 - Establish statewide procedure for applying for services;

§ 8723. DAIL's Duties (continued)

- Facilitate or provide pre-service or in-service training/ technical assistance for providers;
- Maintain statewide system of quality assessment;
- Encourage establishment and development of locally administered and locally controlled nonprofit services for people with developmental disabilities;
- Promote and facilitate participation by people with developmental disabilities and their families in activities/choices that affect their lives;
- Promote positive images and public awareness of people with developmental disabilities and their families;
- Certify services paid for by DAIL; and
- Establish investigation and resolution procedures.

§ 8724. Principles of Service

- Services to people with developmental disabilities and their families shall adhere to the following:
 - Children's services
 - Adult's services
 - Full information
 - Individualized support
 - Family support
 - Meaningful choices
 - Community participation
 - Employment
 - Accessibility
 - Health and safety
 - Trained staff
 - Fiscal integrity

§ 8725. System of Care Plan

- Every 3 years DAHL is required to adopt a plan “for the nature, extent, allocation, and timing of services” consistent with principles that are provided to persons with developmental disabilities and their families
- Each plan shall address the following categories, which must be adopted through rulemaking:
 - Priorities for continuation of existing programs or development of new programs;
 - Criteria for receiving services or funding;
 - Type of services provided; and
 - Process for evaluation and assessing the success of programs.

§ 8725. System of Care Plan (continued)

- Plan priorities are determined by the Commissioner based on:
 - Information obtained from people with developmental disabilities and their families, guardians, service providers;
 - Comprehensive needs assessment that includes:
 - Demographic info about people with developmental disabilities;
 - Information about existing services;
 - Characteristics of unserved and underserved individuals and populations; and
 - Reasons for gaps in service and varying community needs and resources.
 - Once priorities are settled, Commissioner considers available funds in allocating resources.

§ 8725. System of Care Plan (continued)

- Plan categories subject to VAPA (on previous slides) must be submitted to Advisory Group at least 30 days prior to filing the rule, all other components of plan shall be submitted by the Commissioner to the Advisory Council at least 60 days before the plan is adopted
 - Advisory Council shall submit written comments to Commissioner
 - Advisory Council may submit public comments through VAPA process
- Commissioner is authorized to make annual revisions to the plan
 - Proposed revisions must be submitted to the Advisory Board for comment
- Each year DAIL must report to the Governor and GA on the implementation of the plan, extent to which principles of service are achieved, and whether people with a developmental disability have any unmet services needs (including the number of people on waiting lists for services)

§ 8726. Rules & Service Requests

- Rules. Requires DAIL to adopt rules on the following:
 - Criteria for determining if applicant is a person with a developmental disability
 - Procedures for processing applications for services
 - Procedures and time frames for periodic eligibility reviews
 - Procedures for billing
 - Procedures for complaints and appeals (as specified on next slide)
 - Program certification standards and procedures
 - Staff training standards
- Service requests. A person with a developmental disability or their family shall be provided with:
 - Timely information and referral to government and community resources
 - An opportunity to request services
 - Assessment of most appropriate supports/services, upon request
 - Services and funding within DAIL' available resources and in accordance with the system of care plan and person's plan of service

§ 8727. Complaints & Appeals

- DAIL or designee must provide notice to:
 - Applicant or guardian of rights under the chapter, State and federal law, and available rights of appeal
 - Person with developmental disability or their guardian of a decision to deny, suspend, reduce, or terminate services prior to action by DAIL, as well as appeals process
- Person with developmental disability or their guardian can appeal decision to DAIL or designee for a fair hearing before the Human Services Board
- Statute also sets forth process for internal complaints and resolution procedures

§ 8728. Rights of Recipients

- Every person receiving services has right to:
 - Be free from aversive procedures, devices, and treatments
 - Privacy, dignity, confidentiality, and humane care
 - Associate with individuals of both genders
 - Communicate in private by mail and telephone
 - Communicate in primary language and mode
 - Be free from retaliation
 - Maintain contact with family, unless restricted by court order
 - Refuse or terminate services, unless required by court order
 - Have access to read and challenge information contained in records about the person maintained by DAIL or agency/program funded by DAIL

§ 8728. Rights of Recipients (continued)

- Every family receiving services has right to:
 - Receive services without relinquishing custody, unless terminated in accordance with Vermont law
 - Privacy and confidentiality
 - Communicate in primary language and mode
 - Be free from retaliation

§ 8729. Family support payments

- Any payment to an eligible family for support of a person with a developmental disability is a State benefit and is not income for the purpose of State taxation or determining eligibility for any income-related State benefits (but may be included as household income under 32 V.S.A. chapter 154: Homestead Property Tax Credit And Renter Credit)

§ 8730. Certification of service providers

- DAIL required to adopt rules that provide certification standards and procedures for programs funded by the State for people with developmental disabilities
- Certified programs must adhere to the principles of service

§ 8731. Training & § 8732. Special Care Needs

- Staff must receive pre-service and in-service training, and people with developmental disabilities and their families may participate in training
- DAIL required to adopt rules for training standards
- Staff and family-directed respite workers must be trained in the requirements of reporting the abuse or neglect of children
- DAIL required to adopt rules establishing standards for the training and supervision of persons who perform special care procedures (meaning a procedure that is necessitated by a specific medical need that a person with a developmental disability would perform but for the person's disability, provided it may be performed safely)

§ 8733. Advisory Board

- Board composed of 15 members appointed by the Governor for 3-year terms:
 - 5 recipients
 - 5 advocates
 - 5 professionals with expertise in the area of developmental disabilities
- Board shall advise:
 - DAIL on the status and needs of people with developmental disabilities and their families; and
 - Commissioner regarding the development of the system of care plan and recommended legislation, rules, policies, and standards to implement the system of care plan