



**STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF MENTAL RETARDATION SERVICES
ANDREW JACKSON BUILDING, 15TH FLOOR
500 DEADERICK STREET
NASHVILLE, TN 37243**

TITLE: Recoupment and Sanctions Policy

POLICY #: P - 003

A. PURPOSE: The purpose of this policy is to ensure consistency in the application of recoupment and sanctions when there are provider quality of care or compliance issues.

B. APPLICABILITY: This policy applies to the staff of the Division of Mental Retardation Services (DMRS) who are involved in the application of provider recoupments and sanctions when there are provider quality of care or compliance issues.

C. DEFINITIONS

1. **"1st occurrence after a non-financial sanction"** means the first time that the deficiency is identified and cited following the imposition of a non-financial sanction for the same deficiency, provided that an interval of 2 years has not elapsed between the date of the current deficiency citation and the previous deficiency citation.
2. **"HCBS waiver" or "waiver"** means a Home and Community Based Services waiver for persons with mental retardation that includes the following;
 - a. Home and Community Based Services Waiver for the Mentally Retarded and Developmentally Disabled (#0128.90.R2A.01) and any amendments thereto;
 - b. Home and Community Based Services Waiver for Persons with Mental Retardation (#0357.90.01) and any amendments thereto; and
 - c. Self-Determination Waiver Program (#0427.01) and any amendments thereto.
3. **"Recoupment"** means recovery of money paid to a provider due to the provider's failure to comply with TennCare or DMRS requirements for service provision or documentation of such.
4. **"Sanctions"** means financial or other measures imposed on a provider for failure to comply with TennCare/Medicaid or DMRS rules, regulations, or policies.

D. Description of Policy

1. **Identifying issues for recoupment or sanctions:** Identification of issues for which recoupment or sanctions may be applied may originate from the Division of Mental Retardation Services, the Bureau of TennCare, the Office of the Comptroller, or other

state and federal monitoring agencies. Such issues may involve noncompliance with TennCare/Medicaid or DMRS rules, regulations, and policies or noncompliance with other state and federal requirements.

2. **Review of issues for possible recoupment or sanctions:** When DMRS has identified or received notice of issues for possible recoupment or sanctions that have not already been reviewed by DMRS, the DMRS Deputy Commissioner or designee shall have appropriate DMRS staff review the issues and make a recommendation regarding the application of recoupment or sanctions.
3. **Authorization of recoupment or sanctions:** The DMRS Deputy Commissioner or designee shall authorize the application of recoupment or sanctions.
4. **Recoupment:**
 - a. Reasons for recoupment by the Division of Mental Retardation Services shall include but not be limited to:
 - (1) Absent or inadequate documentation to show that a billed service was provided;
 - (2) Provision of a service by a provider who did not meet DMRS or TennCare/Medicaid provider qualifications applicable to HCBS waiver services or other DMRS, state, or federal provider qualifications applicable to state-funded services;
 - (3) Action or inaction by the provider that causes DMRS to use state funds to pay for a service for which Medicaid Federal Financial Participation (FFP) would otherwise have been available; and
 - (4) Any circumstance in which the provider received reimbursement to which the provider was not entitled.
 - b. A provider does not have any right to appeal a recoupment imposed by the Division of Mental Retardation Services.
5. **Sanctions:**
 - a. Sanctions shall include, but not be limited to, the following:
 - (1) A written warning to correct the deficiency;
 - (2) Mandated technical assistance;
 - (3) A moratorium (e.g., prohibition on providing services to new service recipients; prohibition on providing a specific service to new or current service recipients); and
 - (4) A financial sanction.
 - b. Reasons for imposition of sanctions by the Division of Mental Retardation Services shall include failure to comply with:
 - (1) The TennCare/DMRS provider agreement applicable to the provision of HCBS waiver services or other TennCare/Medicaid, DMRS, or federal requirements applicable to Medicaid HCBS waiver services;
 - (2) A DMRS contract applicable to the provision of services state-funded by DMRS or other DMRS or state requirements applicable to state-funded services; and
 - (3) State and federal laws, rules, regulations, and policies.

- c. The application of sanctions shall be based on an assessment of the nature, seriousness, extent, and recurrence of the deficiency.
 - (1) Financial sanctions (see Appendix A and Appendix B):
 - (a) Financial sanctions shall be progressive unless the deficiency is so egregious in nature that more severe sanctions are needed to ensure timely and appropriate correction of the deficiency, in which case such sanctions shall be authorized by the DMRS Deputy Commissioner or designee.
 - (b) The application of a financial sanction by DMRS shall not be contingent upon a non-financial sanction having been applied first.
 - (2) Sanctions other than financial sanctions:
 - (a) Non-financial sanctions shall be progressive unless the deficiency is so egregious in nature that more severe sanctions are needed to ensure correction of the deficiency, in which case such sanctions shall be authorized by the DMRS Deputy Commissioner or designee.
 - (b) For certain deficiencies, DMRS may require the provider to submit an acceptable plan of corrective action. Such a requirement shall not be considered to be a sanction. Sanctions, however, may be applicable if the provider fails to submit an acceptable corrective action plan or if the provider fails to implement a corrective action plan.
 - (c) The Deputy Commissioner, the Assistant Commissioner for Community and Facility Services, or their designee must approve a sanction involving a moratorium on admissions.
- d. Ongoing sanctions (e.g., a financial sanction imposed on a "per day" basis) may continue to be applied until:
 - (1) The date DMRS receives acceptable documentation from the provider to verify that corrective action has been taken in response to the cited deficiency; or
 - (2) If applicable, the date that a final order was entered overturning a sanction as a result of an appeal in accordance with TCA § 33-2-408 and the Uniform Administrative Procedures Act of Tennessee, whichever comes first.
- 6. **Non-exclusivity:** The application of a recoupment shall be independent of the application of a sanction. Where applicable, both a recoupment and a sanction may be applied in accordance with this policy.
- 7. **TennCare Reporting Requirements:** Each month DMRS shall submit the following reports in a TennCare-approved format to the Director of the TennCare Division of Administrative Services or designee, with a copy to the Director of the TennCare Division of Developmental Disability Services or designee.
 - a. Recoupment Report: By month and by year-to date, this report shall identify any provider-specific monetary recoupment that has been collected from a provider for a deficiency involving the Medicaid HCBS waivers. The report shall also indicate the name and social security number of the specific service recipient, the reason for the recoupment, and the date of the recoupment.

- b. Sanction Report: By month and by year-to date, this report shall identify any provider-specific sanctions imposed on a provider for a deficiency involving the Medicaid HCBS waivers, including financial sanctions which have been collected from the provider. The report shall also indicate the reason for the sanction and the date of the sanction.

E. ATTACHMENTS:

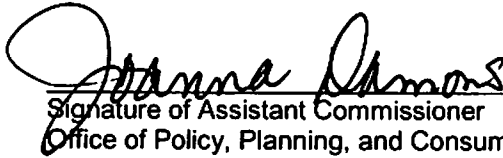
1. Appendix A: Financial Sanctions Applicable to Independent Support Coordination Agencies
2. Appendix B: Financial Sanctions Applicable to Provider Types Other Than Independent Support Coordinators

F. PREVIOUS POLICY (if applicable)

G. DATE APPROVED BY TENNCARE: September 29, 2006

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H. POLICY APPROVAL



Signature of Assistant Commissioner
Office of Policy, Planning, and Consumer Services

10/11/06

Date



Signature of Deputy Commissioner
Division of Mental Retardation Services

10/11/06

Date

APPENDIX A

FINANCIAL SANCTIONS APPLICABLE TO INDEPENDENT SUPPORT COORDINATION AGENCIES		
	DEFICIENCY	SANCTION
1	Late submission of an initial Individual Support Plan (ISP) after the requested effective date or late submission of an annual ISP.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
2	Failure to submit an ISP in a timely manner after notification by DMRS.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per calendar day for each day overdue. • <u>Subsequent occurrences</u>: Progressive sanctions up to \$500 per calendar day for each day overdue.
3	Failure to maintain and amend the ISP so that it is current and accurately reflects the person's needs.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
4	Failure to assist the service recipient in obtaining services as specified in the ISP unless the failure is outside the control of the ISC.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per service recipient. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per service recipient.
5	Failure to report delays in services necessary for the Regional Office to prepare Grier notification letters.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per service recipient. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per service recipient.
6	Failure to monitor the implementation of the ISP.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
7	Failure to adequately document the provision of Support Coordination services.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
8	Late submission of the annual re-evaluation of level of care for waiver services.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence <u>and</u> sanction of \$100 per calendar day for each day overdue. • <u>Subsequent occurrences</u>: Sanction of \$500 per occurrence <u>and</u> progressive sanctions up to \$500 per calendar day for each day overdue.

	DEFICIENCY	SANCTION
9	Failure to ensure that staff received required training in accordance with DMRS training requirements; or failure to meet DMRS required timelines for staff training.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 for each untrained staff person. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 for each untrained staff person.
10	Failure to perform required background checks; or failure to meet DMRS required timelines for background checks.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 for each staff person for whom the background check was not done. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 for each staff person for whom the background check was not done.
11	Failure to complete the annual re-evaluation of level of care for waiver services in a timely manner after notification of the deficiency by DMRS.	<ul style="list-style-type: none"> • <u>Any occurrence</u>: Sanction of \$500 per calendar day for each day overdue after receipt of the notification of the deficiency from DMRS.
12	Failure to meet required timelines for submission of a corrective action plan for deficiencies identified through DMRS surveys and monitoring processes or audits conducted by other monitoring entities (e.g., Quality Review Panel, TennCare); or failure to meet required timelines to submit a revised corrective action plan that adequately addresses such deficiencies.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per calendar day for each day overdue. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per calendar day for each day overdue.
13	Failure to meet required timelines for corrective actions that address deficiencies identified through DMRS surveys and monitoring processes or audits conducted by other monitoring entities (e.g., Quality Review Panel, TennCare).	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per calendar day for each day overdue. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per calendar day for each day overdue.
14	Continued employment or use of any person to provide services when the background or criminal history excludes the person from providing services in accordance with the DMRS/TennCare provider agreement, DMRS contract, or federal or state laws, rules, regulations, or waiver.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per occurrence <u>and</u> sanction of \$100 per calendar day for each day that the person remains on the job or in contact with the service recipient after receiving the results of the background or criminal history check or upon receiving other notification that the person is excluded from providing services. • <u>Subsequent occurrences</u>: progressive sanctions of up to \$1000 per occurrence <u>and</u> progressive sanctions of up to \$500 per calendar day for each day that the person remains on the job or in contact with the service recipient after receiving the results of the background or criminal history check or upon receiving other notification that the person is excluded from providing services.
15	Failure to implement confidentiality policies and procedures to protect the confidentiality of Protected Health Information.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.

	DEFICIENCY	SANCTION
16	Failure to take appropriate corrective action with a staff person who has breached the confidentiality of Protected Health Information.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
17	Failure to implement policies and procedures to prevent retaliation against a service recipient for filing complaints against the provider or for reporting provider non-compliance with DMRS or TennCare/Medicaid requirements.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
18	Failure to take appropriate corrective action with a staff person who is known to have retaliated against a service recipient for filing complaints against the provider or for reporting provider non-compliance with DMRS or TennCare/Medicaid requirements.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
19	Failure to implement policies and procedures to prevent retaliation against an employee by a provider agency for reporting incidents or provider non-compliance with DMRS or TennCare/Medicaid requirements.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
20	Failure to take appropriate corrective action with a staff person who is known to have retaliated against another employee for reporting incidents or provider non-compliance with DMRS or TennCare/Medicaid requirements	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
21	Allowing staff to continue to provide services during the pendency of an investigation of an allegation of abuse, neglect, or exploitation involving the staff person, unless authorized by DMRS.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per calendar day per involved staff person. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per calendar day per involved staff person.
22	Failure to otherwise comply with the terms of the TennCare/DMRS provider agreement; a DMRS contract; the DMRS Provider Manual; state or federal laws, rules, and regulations; or TennCare rules and policies applicable to the Medicaid HCBS waivers.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: based on the seriousness of the deficiency, a non-financial sanction or a financial sanction of \$100 per occurrence. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence. • NOTE: In addition to the sanctions above, there would be recoupment of reimbursement for services in some circumstances.

APPENDIX B

FINANCIAL SANCTIONS APPLICABLE TO PROVIDER TYPES OTHER THAN INDEPENDENT SUPPORT COORDINATORS		
	DEFICIENCY	SANCTION
1	Failure to have a current ISP in the person's <u>home</u> .	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
2	Failure to ensure that staff received required training in accordance with DMRS training requirements; or failure to meet DMRS required timelines for staff training.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 for each untrained staff person. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 for each untrained staff person.
3	Failure to perform required background checks ; or failure to meet DMRS required timelines for background checks.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 for each staff person for whom the background check was not done. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 for each staff person for whom the background check was not done.
4	Continued employment or use of any person with a background or criminal history to provide services when the background or criminal history excludes the person from providing services in accordance with the TennCare/DMRS provider agreement, DMRS contract, or federal or state laws, rules, regulations, or waiver requirements.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per occurrence <u>and</u> sanction of \$100 per calendar day for each day that the person remains on the job or in contact with the service recipient after receiving the results of the background or criminal history check or upon receiving other notification that the person is excluded from providing services. • <u>Subsequent occurrences</u>: progressive sanctions of up to \$1000 per occurrence <u>and</u> progressive sanctions of up to \$500 per calendar day for each day that the person remains on the job or in contact with the service recipient after receiving the results of the background or criminal history check or upon receiving other notification that the person is excluded from providing services.
5	Failure to provide a scheduled service without giving advance notification, unless such is beyond the reasonable control of the provider.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
6	Failure to have the service recipient available for a scheduled service without advance notification to the service provider, unless such is beyond the reasonable control of the provider.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.

	DEFICIENCY	SANCTION
7	Failure to report Protection From Harm (PFH) incidents in accordance with DMRS policy.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
8	Failure to meet required timelines for implementation of PFH corrective actions to address cited deficiencies without prior authorization from DMRS.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per calendar day for each day overdue. • <u>Subsequent occurrences</u>: Sanction of \$500 per calendar day for each day overdue.
9	Failure of a provider designated as "Representative Payee" to monitor and maintain financial eligibility of the service recipient, unless such is beyond the reasonable control of the provider.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence. • NOTE: In addition to the sanctions above, if the service recipient temporarily lost Medicaid eligibility as a result, recoupment would also apply for services provided during the period of lapsed Medicaid eligibility.
10	Failure to appropriately manage the service recipient's personal funds in accordance with the DMRS Personal Funds Management Policy, unless such is beyond the reasonable control of the provider..	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence. • NOTE: In addition to the sanctions above, the provider must make restitution of personal funds, where appropriate, to the service recipient.
11	Failure to ensure that the service recipient attends scheduled medical appointments , unless such is beyond the reasonable control of the provider.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
12	Failure to arrange medical appointments (including referrals) and follow-up visits or failure to obtain recommended laboratory tests and radiographic evaluations , unless such is beyond the reasonable control of the provider.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
13	Failure to maintain copies of pertinent medical information in the service recipient's record, unless such is beyond the reasonable control of the provider.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
14	Failure to ensure that a Registered Nurse (RN) supervises licensed practical nurse (LPN) staff.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence. • NOTE: In addition to the sanctions above, there would be recoupment of reimbursement for services provided by an LPN who was not supervised, as required, by an RN.

	DEFICIENCY	SANCTION
15	Failure to ensure that qualified PT's and OT's supervise staff who are PT and OT assistants.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence. • NOTE: In addition to the sanctions above, there would be recoupment of reimbursement for services provided by PT and OT assistants who were not supervised, as required, by a qualified PT or OT.
16	Failure to provide appropriate supervision of staff who administer medications.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
17	Failure to ensure that direct care staff are certified for medication administration when such staff are responsible for administering medications.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per non-certified staff person. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per non-certified staff person.
18	Failure to follow the service recipient's dining plan.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
19	Failure to follow service recipient's diet as specified in the ISP, unless there is documentation of the service recipient's refusal to comply with the diet or unless the failure is the result of circumstances beyond the control of the provider.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
20	Failure to provide food appropriate to meet a service recipient's diet as specified in the ISP unless the failure is the result of circumstances beyond the control of the provider.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
21	Refusal to reinstitute services for a service recipient following a hospitalization or other service interruption.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per calendar day for each day the provider refuses to reinstitute services. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per calendar day for each day the provider refuses to reinstitute services.
22	Failure to adequately document the provision of services.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence. • NOTE: In addition to the sanctions above, there would be recoupment of reimbursement for services if there was lack of documentation that the service was provided.

	DEFICIENCY	SANCTION
23	Failure to have or implement DMRS-required supervision plans or staffing plans for direct care staff needed to implement the Individual Support Plan.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
24	Failure to take appropriate action to request repair or replacement of specialized medical equipment, assistive technology equipment, environmental accessibility modifications, or vehicle accessibility modifications when such items are not in proper working order.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per occurrence.
25	Failure to meet DMRS-required timelines for submission of a new or revised corrective action plan that adequately addresses deficiencies identified through DMRS surveys and monitoring processes or audits conducted by other monitoring entities, without prior authorization from DMRS.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per calendar day for each day overdue. • <u>Subsequent occurrences</u>: Sanction of \$500 per calendar day for each day overdue.
26 6	Failure to implement confidentiality policies and procedures to protect the confidentiality of Protected Health Information.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
27	Failure to take appropriate corrective action with a staff person who has breached the confidentiality of Protected Health Information.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: non-financial sanction. • <u>1st occurrence after a non-financial sanction</u>: sanction of \$100 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
28	Failure to implement policies and procedures to prevent retaliation against a service recipient for filing complaints against the provider or for reporting provider non-compliance with DMRS or TennCare/Medicaid requirements.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
29	Failure to take appropriate corrective action with a staff person who is known to have retaliated against a service recipient for filing complaints against the provider or for reporting provider non-compliance with DMRS or TennCare/Medicaid requirements.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
30	Failure to implement policies and procedures to prevent retaliation against an employee by a provider agency for reporting incidents or provider non-compliance with DMRS or TennCare/Medicaid requirements.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
31	Failure to take appropriate corrective action with a staff person who is known to have retaliated against a subordinate employee for reporting incidents or provider non-compliance with DMRS or TennCare/Medicaid requirements	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$500 per occurrence. • <u>Subsequent occurrences</u>: progressive sanctions up to \$1000 per occurrence.
32	Allowing staff to continue to provide services during the pendency of an investigation of an allegation of abuse, neglect, or exploitation involving the staff person, unless authorized by DMRS.	<ul style="list-style-type: none"> • <u>1st occurrence</u>: sanction of \$100 per calendar day per involved staff person. • <u>Subsequent occurrences</u>: progressive sanctions up to \$500 per calendar day per involved staff person.

	DEFICIENCY	SANCTION
33	<p>Failure to otherwise comply with the terms of the TennCare/DMRS provider agreement; a DMRS contract; the DMRS Provider Manual; state or federal laws, rules, and regulations; or TennCare rules and policies applicable to the Medicaid HCBS waivers.</p>	<ul style="list-style-type: none"> • 1st occurrence: based on the seriousness of the deficiency, a non-financial sanction or a financial sanction of \$100 per occurrence. • 1st occurrence after a non-financial sanction: sanction of \$100 per occurrence. • Subsequent occurrences: progressive sanctions up to \$1000 per occurrence. • NOTE: Recoupment may also be applicable in some circumstances