



**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:** Termination of Participant Direction of Waiver Services

**POLICY #:** P- 013

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**A. PURPOSE:** The purpose of this policy is to provide clarification about the process for termination of participant direction of services by service recipients enrolled in the Self-Determination Waiver Program.

**B. APPLICABILITY:** This policy applies to the case management and other staff of the Division of Mental Retardation Services (DMRS).

**C. DEFINITIONS**

1. **"HCBS waiver" or "waiver"** means the Self-Determination Waiver Program (#0427.R01) and any amendments thereto.
2. **"Participant Direction of Waiver Services"** means the process whereby a service recipient directs the provision of a service that is specified in the Self-Determination Waiver Program as one which is available to be participant-directed by the service recipient in accordance with waiver requirements.

**D. DESCRIPTION OF POLICY**

1. **Services which may be Participant-Directed:** Services which may be participant-directed include the following:
  - a. Personal Assistance;
  - b. Day Services (except facility-based Day Services);
  - c. Respite Services (when provided by an approved Respite Services provider who serves only 1 service recipient); and
  - d. Individual Transportation Services.
2. **Voluntary Discontinuation of Participant Direction of Waiver Services:** A service recipient or the service recipient's guardian or conservator may voluntarily discontinue participant direction of waiver services at any time.
3. **Involuntary Termination of Participant Direction of Waiver Services:** Participant direction of waiver services may be involuntarily terminated for the following reasons:

- a. Failure of the service recipient (or the service recipient's guardian or conservator, if applicable) to participant-direct services in accordance with waiver requirements applicable to the participant direction of services (e.g., failure to maintain and allow access to records; failure to provide documentation to the Financial Administration entity regarding services provided; failure to notify the case manager of concerns about abuse, neglect and exploitation; evidence of fraud).
- b. If continuation of participant direction of services by the service recipient or the service recipient's guardian or conservator would result in the inability of the Division of Mental Retardation Services to ensure the health and safety of the service recipient.

**4. Review of Request for Involuntary Termination of Participant Direction of Waiver Services:**

- a. When there is an allegation or evidence that there has been a failure to participant-direct services in accordance with waiver requirements, the DMRS Regional Director or designee will review the circumstances of the specific situation to determine the cause of such failure.
  - (1) If the failure to participant-direct services in accordance with waiver requirements appears to be due to lack of training about, or a misunderstanding of, the requirements applicable to participant-directed services, the DMRS Regional Director or designee shall send the service recipient (or the service recipient's guardian or conservator, if applicable) written notification of the need for compliance with waiver requirements and shall notify the Financial Administration Entity to provide the service recipient (or the service recipient's guardian or conservator, if applicable) with additional training in the appropriate participant direction of services.
  - (2) The Regional Director shall submit a request for involuntary termination of participant direction to the DMRS Director of Person-Centered Practices in the following circumstances:
    - (a) If it is determined that the continuation of participant direction of services by the service recipient (or the service recipient's guardian or conservator, if applicable) would result in the inability of the Division of Mental Retardation Services to ensure the health and safety of the service recipient; or
    - (b) If there is evidence of fraud; or
    - (c) If there is documentation that the service recipient (or the service recipient's guardian or conservator, if applicable) has refused to comply with waiver requirements for participant-directed services (e.g., failure to maintain records and allow access to records); or
    - (d) If the service recipient (or the service recipient's guardian or conservator, if applicable) cannot or will not comply with waiver requirements for participant-directed services despite additional training and written notification of the need for compliance with waiver requirements or if the service recipient (or the service recipient's guardian or conservator, if applicable) refuses additional training.
- b. Upon receipt of a request for involuntary termination of participant direction of waiver services, the Director of Person-Centered Practices shall review the request and shall approve or deny the request.

- (1) If the request for involuntary termination of participant direction is denied, the DMRS Director of Person-Centered Practices shall send written notice of the decision to:
  - (a) The DMRS Regional Director; and
  - (b) The DMRS case manager.
- (2) If the request for involuntary termination of participant direction is approved, the DMRS Director of Person-Centered Practices shall send written notice of the decision to:
  - (a) The service recipient (or the service recipient's guardian or conservator, if applicable);
  - (b) The DMRS case manager;
  - (c) The DMRS Regional Director; and
  - (d) The Financial Administration/Supports Brokerage entity.
- (3) The notice of involuntary termination of participant direction shall contain information about the participant's right to appeal the involuntary termination.

- 5. **Transition to Provider-Managed Waiver Services:** When termination of participant direction of waiver services has been authorized by the DMRS Director of Person-Centered Practices, the DMRS case manager will ensure continuity of services by:
  - a. Assisting the service recipient in identifying an appropriate service provider from available qualified providers and arranging for the transition from participant-directed services to provider-managed services; and
  - b. Revising the Individual Support Plan to indicate that services will be provided through the provider-managed method of service delivery.
- 6. **Service Recipient's Right to Receive Waiver Services:** Termination of participant direction of waiver services shall not affect the service recipient's right to receive covered services through the provider-managed method of service delivery.

E. **ATTACHMENTS:** None

F. **PREVIOUS POLICY:** TennCare Rule 1200-13-1-.29.

G. **DATE APPROVED BY TENNCARE:** August 26, 2008

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H. POLICY APPROVAL

*Joanna Damone by W. Moore, MD*

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

*8-28-2008*

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Date

*Stephen H. Norris*

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Signature of Deputy Commissioner  
Division of Mental Retardation Services

*8/28/08*

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Date