

# **MASSACHUSETTS DEPARTMENT OF MENTAL HEALTH SERVICE OR ELIGIBILITY CHANGES**

**Prepared by the Mental Health Legal Advisors Committee  
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## **What if a DMH community provider thinks a client isn't respecting the rights of other client or staff in a program or residential site of a program or isn't conforming to the program or residential site rules?**

If a DMH community provider thinks a client isn't respecting rights of other client or staff in a program or residential site of a program or isn't conforming to the program or residential site rules, there shall be a review of the client's individualized action plan, and the program director or designee shall document the situation, including any known precipitating factors; and in conjunction with the client and his or her legally authorized representative, develop a plan to address the situation.<sup>1</sup> Protections exist for clients if a provider pursues this course of action.<sup>2</sup>

## **What if the DMH Area Director determines that the client no longer meets clinical criteria for DMH services or no longer needs such services?**

DMH will set a date for when services will end.<sup>3</sup> Then the Area Director must take a series of steps. These steps include notifying the client of the reason for ending services and of right to appeal, modify the plan, or identify in the ISP, if applicable, any person or agency responsible for future provision of services (or state no services are needed).<sup>4</sup> If an appeal is filed, DMH cannot discharge the client from services until appeal is complete.<sup>5</sup>

## **What if a DMH client wants to be discharged from DMH services?**

If a client or representative requests discharge from DMH services, the request will be referred to the Area Director or designee for review.

If DMH agrees, the client shall be discharged and shall no longer be a client.

If such request is against the advice of the Area Director or designee, DMH will try for up to 30 days to encourage the client or representative to continue DMH services. If the client or representative still requests discharge, the client shall be discharged and will no longer be a client.

If a client disengages from DMH services without formal request, DMH will try to re-engage the client. If those efforts fail, DMH staff will notify the Area Director or designee shall be notified. If the Area Director or designee agrees, the client shall be discharged and shall no longer be a client.<sup>6</sup>

**What if one wants to change a DMH client’s area of responsibility (also called “area of tie”)?**

DMH has a policy which lays out the rights of a client with respect to his or her area of responsibility, and the process for seeking to change the area of responsibility.<sup>7</sup>

**Can DMH relook at eligibility of an existing client?**

DMH may reexamine whether a client continues to meet criteria for DMH services (clinical and determination of need) annually or when information becomes available that may affect the Department’s decision regarding service authorization.<sup>8</sup>

**What happens when a child ages out of DMH services?**

New applicants who are age 18 and who meet adult eligibility criteria are entered as adults; if they do not meet adult criteria they may become eligible under the child/adolescent criteria. Individuals under the age of 19 may receive adult services when clinically appropriate and adults over the age of 19 may receive child and adolescent services when appropriate. Furthermore, DMH has placed significant emphasis on planning for transition age youth between the ages of 16 and 25. This age grouping encompasses both the child/adolescent and adult systems. Lastly, the Rosie D. class includes children up to age 21.<sup>9</sup>

**Does special education affect DMH services?**

Local school systems are required under state and federal law to provide a range of services to youth (up to age 22 or receipt of a high school diploma, whichever comes first) who are disabled by reason of emotional disturbance to the extent that they require special education and related services. These services may include in-class supports, counseling and, for children with more severe needs, educational services outside of a regular classroom and in special education day and residential schools.

Individuals who receive special education also may be eligible to receive DMH services. When special education services end, DMH clients may face gaps in their service delivery system and may look to DMH services to fill them. As a special education student, a youth has a right to a special education transition plan that anticipates and addresses this eventuality. For DMH clients, DMH should participate in the development of the special education transition plan.

**Does DDS eligibility affect DMH services?**

One need not choose between seeking services from DMH and the Department of Developmental Services (DDS). An individual may pursue both types of services and may pursue them concurrently. One could be eligible for both types of services. Eligibility for one agency’s services does not influence eligibility for another agency’s services. However, when an agency conducts an assessment of needs, if needs are being met by one agency, the other agency will consider that need met and will not provide a service with respect to that need.

**What if an individual needs inpatient mental health services? Does it matter if he is she is a DMH client or not?**

One may access acute mental health services from a general or psychiatric hospital in Massachusetts regardless of whether or not one is a DMH client. If treatment cannot be accomplished in the acute care setting and longer term care is needed, the hospital may seek transfer to a continuing care facility. Admission to such a facility again does not require that the patient be a DMH client.

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<sup>1</sup> 104 CMR 29.13(5).

<sup>2</sup> 104 CMR 29.13(5)(a)-(e).

<sup>3</sup> 104 CMR 29.14(1).

<sup>4</sup> 104 CMR 29.14(1)

<sup>5</sup> 104 CMR 29.14(2).

<sup>6</sup> 104 CMR 29.15 (1)(a).

<sup>7</sup> DMH Policy 99-1, Area of Responsibility (1999),

<http://www.mass.gov/eohhs/docs/dmh/policy/policy-99-1.pdf>.

<sup>8</sup> 104 CMR 29.04(1)(g).

<sup>9</sup> Voices of Youth in Transition: The Experience of Aging Out of the Adolescent Public Mental Health Service System in Massachusetts (Delman 2002) in MCLE, Protecting Children in a Changing World (2003) at 267.