CHAPTER 5

INTELLECTUAL DISABILITIES AND AUTISM

SUBCHAPTER 1

GENERAL PROVISIONS

§5001. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1983, c. 459, §7 (NEW).]

1. Bureau.
[PL 1993, c. 410, Pt. CCC, §23 (RP).]

1-A. Division.
[PL 1995, c. 560, Pt. K, §38 (RP).]

1-B. Correspondent. "Correspondent" means a person designated by the Consumer Advisory Board or its successor to act as a next friend of a person with an intellectual disability or autism.
[PL 2011, c. 542, Pt. A, §74 (AMD).]

1-C. Family. "Family" means those persons that the person defines as included in that person's family, including as appropriate unpaid individuals with whom the person resides.
[PL 2007, c. 356, §9 (NEW); PL 2007, c. 356, §31 (AFF).]

2. Incapacitated person. "Incapacitated person" means any person who is impaired by reason of intellectual disability or autism to the extent that the person lacks sufficient understanding or capacity to make, communicate or implement responsible personal decisions or decisions regarding the person's property.
[PL 2011, c. 542, Pt. A, §75 (AMD).]

2-A. Individual support coordinator. "Individual support coordinator" means a regional staff member of the department with the responsibility for coordinating the personal planning and professional services for a person eligible for adult developmental services under this Title.
[PL 2011, c. 542, Pt. A, §76 (AMD).]

3. Intellectual disability. " Intellectual disability" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.
[PL 2011, c. 542, Pt. A, §77 (AMD).]

3-A. Mentally retarded.
[PL 2011, c. 542, Pt. A, §78 (RP).]

3-B. Person. "Person" means an adult with an intellectual disability or autism.
[PL 2011, c. 542, Pt. A, §79 (AMD).]

3-C. Personal planning. "Personal planning" means a process that assists and supports each person who has an intellectual disability or autism in creating a vision for how to live in and be a part of the community.
[PL 2011, c. 542, Pt. A, §80 (AMD).]

3-D. Personal planning team. "Personal planning team" means the person with an intellectual disability or autism, the person's guardian, if any, the person's individual support coordinator or case manager and other individuals chosen or identified by the person to participate in personal planning.
[PL 2011, c. 542, Pt. A, §81 (AMD).]

3-E. Professional services. "Professional services" means services provided by individuals licensed to provide medical or behavioral health care and treatment, including but not limited to physicians, nurses, physical therapists, occupational therapists, psychologists, speech therapists and dentists.
[PL 2007, c. 356, §14 (NEW); PL 2007, c. 356, §31 (AFF).]

4. Protective services. "Protective services" means services which will separate incapacitated adults from danger, including, but not limited to:

A. Social, medical and psychiatric services necessary to preserve the incapacitated adult's rights and resources and to maintain the incapacitated adult's physical and mental well-being; and [PL 1983, c. 459, §7 (NEW).]

B. Seeking guardianship or a protective order under Title 18-C, Article 5. [PL 2017, c. 402, Pt. C, §98 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. C, §98 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Region. "Region" means any of the regions established by the department.
[PL 1995, c. 560, Pt. K, §39 (AMD).]

5-A. Related condition. "Related condition" means a condition that meets the definition in 42 Code of Federal Regulations, Section 435.1010 in effect January 1, 2023.
[PL 2023, c. 89, §8 (NEW).]

6. Supportive services. "Supportive services" means services to make it possible for an incapacitated person to become rehabilitated or self-sufficient to the maximum extent possible, including but not limited to:

A. Counseling; [PL 1983, c. 459, §7 (NEW).]

B. Transportation; [PL 1983, c. 459, §7 (NEW).]

C. Assistance in obtaining adequate housing; [PL 1983, c. 459, §7 (NEW).]

D. Medical and psychiatric care; and [PL 1983, c. 459, §7 (NEW).]

E. Nutritional services. [PL 1983, c. 459, §7 (NEW).]
[PL 1983, c. 459, §7 (NEW).]

7. Ward. "Ward" means a person for whom the department has been duly appointed guardian under Title 18-C, Article 5, Part 7.
[PL 2017, c. 402, Pt. C, §99 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1989, c. 73, §§3,4 (AMD). PL 1993, c. 410, §§CCC23-25 (AMD). PL 1995, c. 560, §§K38-40 (AMD). PL 2007, c. 356, §§8-14 (AMD). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §§74-81 (AMD). PL 2017, c. 402, Pt. C, §§98, 99 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2023, c. 89, §8 (AMD).

§5002. Policy

1. Services. It is the policy of the State to provide education, training and habilitative services to persons with intellectual disabilities or autism who need those services, except that nothing in this chapter may replace or limit the right of any person with an intellectual disability or autism to treatment

by spiritual means alone, through prayer, if that treatment is requested by the person or by the person's next of kin or guardian.
[PL 2011, c. 542, Pt. A, §82 (AMD).]

2. Setting. It is the policy of the State that the setting for the services described in subsection 1 must, consistent with adequate care and treatment:

A. Impose the fewest possible restrictions on the liberty of persons with intellectual disabilities or autism; and [PL 2011, c. 542, Pt. A, §82 (AMD).]

B. Be as close as possible to the patterns and norms of the mainstream of society. [PL 1983, c. 459, §7 (NEW).]
[PL 2011, c. 542, Pt. A, §82 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2011, c. 542, Pt. A, §82 (AMD).

§5003. System of care for mentally retarded clients

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 712, §§2,3 (AMD). PL 1989, c. 628, §§1,2 (AMD). PL 1991, c. 780, §DD2 (AMD). PL 1993, c. 410, §§CCC26,27 (AMD). PL 1995, c. 368, §GG5 (AMD). PL 1995, c. 560, §§K41-45 (AMD). PL 2007, c. 356, §15 (RP). PL 2007, c. 356, §31 (AFF).

§5003-A. System of care for clients with intellectual disabilities or autism

1. System of services and support. The Legislature declares that the system of services and support through which the State provides services to and programs for persons with intellectual disabilities or autism must be designed to protect the integrity of the legal and human rights of these persons and to meet their needs consistent with the principles guiding delivery of services as set forth in section 5610.
[PL 2021, c. 321, §1 (AMD).]

2. Responsibilities of the department. To facilitate the development of a system that meets the needs of persons with intellectual disabilities or autism, the commissioner shall:

A. Provide a mechanism for the identification, evaluation, treatment and reassessment of and the provision of services to persons with intellectual disabilities or autism that is consistent with the principles guiding delivery of services, as set forth in section 5610, through appropriate personal planning offered to persons served by the department in accordance with section 5470-B; [PL 2011, c. 542, Pt. A, §83 (AMD).]

B. Identify the needs and desires of persons with intellectual disabilities or autism through appropriate personal planning and record any unmet needs of persons served or eligible for service by the department for development of budget requests to the Governor that are adequate to meet such needs; [PL 2011, c. 542, Pt. A, §83 (AMD).]

C. Provide programs, insofar as resources permit, for appropriate services and supports to persons with intellectual disabilities or autism regardless of age, severity of need or ability to pay; [PL 2011, c. 542, Pt. A, §83 (AMD).]

D. Support the establishment of community services for persons eligible to receive services from the department by promoting access to professional services in the person’s community. Such support may be provided directly or through contracts with qualified providers. For persons who

have professional service needs identified through personal planning, the department shall monitor the provision of those services; [PL 2007, c. 356, §16 (NEW); PL 2007, c. 356, §31 (AFF).]

E. Eliminate the department's own duplicative and unnecessary administrative procedures and practices in the system of services and support for persons with intellectual disabilities or autism, encourage other departments to do the same and clearly define areas of responsibility in order to use present resources economically; [PL 2021, c. 321, §2 (AMD).]

F. Strive toward having a sufficient number of personnel who are qualified and experienced to provide treatment that is beneficial to persons with intellectual disabilities or autism; [PL 2021, c. 321, §3 (AMD).]

G. Encourage other departments to provide to persons with intellectual disabilities or autism those services that are required by law, and in particular:

(1) The commissioner shall work actively with the Commissioner of Education to ensure that persons with intellectual disabilities or autism receive appropriate services upon being diagnosed with either disability regardless of the degree of functional limitation or accompanying disabilities;

(2) The commissioner shall advise other departments about standards and policies pertaining to administration, staff, quality of care, quality of treatment, health and safety of clients, rights of clients, community relations and licensing procedures and other areas that affect persons with intellectual disabilities or autism residing in facilities licensed by the department; and

(3) The commissioner shall inform the joint standing committee of the Legislature having jurisdiction over human resources matters about areas where increased cooperation by other departments is necessary in order to improve the delivery of services to persons with intellectual disabilities or autism; and [PL 2021, c. 321, §4 (AMD).]

H. Post quarterly reports on the department's publicly accessible website, for each home and community-based services waiver from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services in which the State participates, data on how many persons were served and how many were on the waiting list for services. The department shall post this information by prioritization category when applicable and shall include one or more indicators of the length of time that persons are on the waiting list. [PL 2021, c. 321, §5 (NEW).]

[PL 2021, c. 321, §§2-5 (AMD).]

3. Plan. The commissioner shall prepare a plan pursuant to this subsection.

A. The plan must indicate the most effective and efficient manner in which to implement services and programs for persons with intellectual disabilities or autism while safeguarding and respecting the legal and human rights of these persons. [PL 2011, c. 542, Pt. A, §83 (AMD).]

B. The plan must be prepared once every 2 years and must be submitted to the joint standing committee of the Legislature having jurisdiction over health and human services matters by no later than January 15th of every odd-numbered year. [PL 2007, c. 356, §16 (NEW); PL 2007, c. 356, §31 (AFF).]

C. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall study the plan and make recommendations to the Legislature with respect to funding improvements in programs and services to persons with intellectual disabilities or autism. [PL 2011, c. 542, Pt. A, §83 (AMD).]

D. The plan must describe the system of intellectual disability and autism services in each of the adult developmental service regions and statewide. [PL 2011, c. 542, Pt. A, §83 (AMD).]

E. The plan must include both existing service resources and deficiencies in the system of services. [PL 2007, c. 356, §16 (NEW); PL 2007, c. 356, §31 (AFF).]

F. The plan must include an assessment of the roles and responsibilities of intellectual disability and autism agencies, human service agencies, health agencies and involved state departments and suggest ways in which these departments and agencies can better cooperate to improve the service systems. [PL 2011, c. 542, Pt. A, §83 (AMD).]

G. The plan must be made public within the State in such a manner as to facilitate public involvement. [PL 2007, c. 356, §16 (NEW); PL 2007, c. 356, §31 (AFF).]

H. The commissioner shall ensure that the development of the plan includes the participation of persons with intellectual disabilities, autism, brain injury and other related conditions; community intellectual disability and autism service providers; consumer and family groups; and other interested persons or groups in annual statewide hearings, as well as informal meetings and work sessions. The commissioner shall ensure the participation of persons reflecting a diversity of ethnicity, race and gender. [PL 2021, c. 321, §6 (AMD).]

I. The commissioner must consider community service needs, relate these identified needs to biennial budget requests and incorporate necessary service initiatives into a comprehensive planning document. [PL 2007, c. 356, §16 (NEW); PL 2007, c. 356, §31 (AFF).]

[PL 2021, c. 321, §6 (AMD).]

4. General Fund account; Medicaid match; intellectual disability; autism. The commissioner shall establish a General Fund account to provide the General Fund match for intellectual disability or autism Medicaid eligible services. Any unencumbered balances of General Fund appropriations remaining at the end of each fiscal year must be carried forward to be used for the same purposes.
[PL 2011, c. 542, Pt. A, §83 (AMD).]

5. Medicaid savings. Intermediate care facilities for persons with intellectual disabilities or autism and providers of freestanding day habilitation programs shall submit payment to the department equal to 50% of any Medicaid savings due the State pursuant to the principles of reimbursement, as established under Title 22, sections 3186 and 3187, that are reported in any unaudited cost report for fiscal years ending June 30, 1995 and thereafter. Payment is due with the cost report. After audit, any amount submitted in excess of savings allocated to the facility or provider pursuant to the principles of reimbursement must be returned to the facility or provider. Notwithstanding requirements or conditions contained in the principles of reimbursement, any amount due the State after final audit in excess of savings paid on submission of a cost report must be paid to the State within 90 days following receipt of the department's final audit report.
[PL 2011, c. 542, Pt. A, §83 (AMD).]

6. Required reporting by the department. The department shall make available, on at least an annual basis, a report or reports regarding the services and support provided by the department to persons with intellectual disabilities or autism.

A. The goal of the reporting under this subsection is to provide the public with information on outcome measures established by the department. These measures may include, but are not limited to, whether:

(1) Persons served by the department are healthy and safe;

(2) Needs of persons are being met;

(3) People are included in their communities; and

(4) The system of services and support under this section is efficient and effective. [PL 2021, c. 321, §7 (AMD).]

B. At a minimum, the department's report or reports under this subsection must offer information on the following:

(1) Unmet needs;

(2) Reportable events;

(3) Adult protective services;

(4) Crisis services;

(5) Persons' and families' satisfaction with services;

(6) Case management ratios;

(7) Evaluations of costs of services;

(8) Grievances;

(9) Quality assurance and quality improvement efforts; and

(10) New initiatives. [PL 2007, c. 356, §16 (NEW); PL 2007, c. 356, §31 (AFF).]

C. A report under this subsection must be provided to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The commissioner or the commissioner's designee shall appear in person before the committee and shall present the report. The report must be posted on the department's publicly accessible website and must be made easily available to persons served by the department, families, guardians, advocates, Legislators and the provider community. [PL 2007, c. 356, §16 (NEW); PL 2007, c. 356, §31 (AFF).]
[PL 2021, c. 321, §7 (AMD).]

7. Committee authorized to introduce legislation. The joint standing committee of the Legislature having jurisdiction over health and human services matters is authorized to introduce a bill in each first regular session of the Legislature and a bill in each second regular session of the Legislature to address the system of services and support for persons with intellectual disabilities or autism.
[PL 2021, c. 321, §8 (NEW).]

SECTION HISTORY

PL 2007, c. 356, §16 (NEW). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §83 (AMD). PL 2021, c. 321, §§1-8 (AMD).

§5003-B. Services across the lifespan

The department shall facilitate the development of a home and community-based waiver from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services that provides services for persons with intellectual and developmental disabilities, autism or other related conditions across the lifespan, including smooth transitions from childhood to adulthood. Upon federal approval, the department shall adopt rules to implement this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A, except that any subsequent amendments to those rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 412, Pt. LLLLL, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 412, Pt. LLLLL, §1 (NEW).

§5004. Sexual activity with recipient of services prohibited

A person who owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services may not engage in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, with another person or subject another person to sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, if the other person, not the actor's spouse, is a person with an intellectual disability or autism who receives therapeutic, residential or habilitative services from the organization, program or residence. [PL 2011, c. 542, Pt. A, §84 (AMD).]

SECTION HISTORY

PL 1993, c. 687, §9 (NEW). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). RR 2003, c. 2, §103 (COR). PL 2011, c. 542, Pt. A, §84 (AMD).

§5005. Office of Advocacy

(REPEALED)

SECTION HISTORY

PL 2007, c. 356, §17 (NEW). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §§85-90 (AMD). PL 2011, c. 657, Pt. EE, §4 (RP).

§5005-A. Advocacy agency

1. Agency. The department shall contract with the agency designated pursuant to Title 5, section 19502, referred to in this section as "the agency," to provide the services described in subsection 2 to individuals with intellectual disabilities or autism.
[PL 2011, c. 657, Pt. EE, §5 (NEW).]

2. Duties. The department shall contract with the agency to perform the following duties statewide in at least 5 geographically dispersed locations.

A. The agency shall receive complaints made by or on behalf of individuals with intellectual disabilities or autism and represent their interests in any matter pertaining to their rights and dignity. [PL 2013, c. 310, §2 (AMD).]

B. The agency shall investigate the claims, grievances and allegations of violations of the rights of individuals with intellectual disabilities or autism. [PL 2013, c. 310, §2 (AMD).]

C. The agency may pursue legal, administrative and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of individuals with intellectual disabilities or autism who are or may be eligible for services administered, licensed or funded by the department, except that the agency may refuse to take action on any complaint that it considers to be trivial, to be moot or to lack merit or for which there is clearly another remedy available. [PL 2013, c. 310, §2 (AMD).]

D. [PL 2013, c. 310, §2 (RP).]

E. The agency may refer individuals with intellectual disabilities or autism to other agencies or entities and collaborate with those agencies or entities for the purpose of advocating for the rights and dignity of those individuals. [PL 2013, c. 310, §2 (AMD).]

F. The agency shall act as an information source regarding the rights of all individuals with intellectual disabilities or autism, keeping itself informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of those individuals and about relevant legal decisions and other developments related to the fields of mental health, intellectual disabilities and autism, both in this State and in other parts of the country. [PL 2013, c. 310, §2 (AMD).]

G. The agency may make and publish reports necessary to the performance of the duties described in this section. The agency may report its findings to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press. At least annually, the agency shall report both in person and in writing to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the department regarding the performance of the duties described in this section. [PL 2013, c. 310, §2 (AMD).]

H. The agency may monitor the delivery of services, supports and other assistance or residential services or treatment provided to persons with intellectual disabilities or autism for the purpose of

ensuring that services, supports and assistance meet the needs of those persons and are delivered in conformity with laws, regulations, rules and other standards regarding quality of care. [PL 2013, c. 310, §2 (NEW).]

[PL 2013, c. 310, §2 (AMD).]

3. Participate in personal planning. The agency may participate in personal planning when the agency has concerns regarding the rights or dignity of a person with intellectual disabilities or autism. A person has the right to refuse such participation.

[PL 2011, c. 657, Pt. EE, §5 (NEW).]

4. Access to files and records. The agency has access, limited only by the civil service law, to the files, records and personnel of any provider of services, including the files and records of any person with an intellectual disability or autism held by any provider of service, administered, licensed or funded by the department and to all reports and related documents submitted pursuant to section 5604-A.

[PL 2013, c. 310, §3 (AMD).]

4-A. Access to individuals. The agency has access to individuals pursuant to Title 5, section 19506.

[PL 2013, c. 310, §4 (NEW).]

5. Confidentiality. The following provisions govern confidentiality.

A. Any request by or on behalf of an individual with intellectual disabilities or autism for action by the agency and all written records or accounts related to the request are confidential as to the identity of the individual. [PL 2011, c. 657, Pt. EE, §5 (NEW).]

B. The records and accounts under paragraph A may be released only as provided by law. [PL 2011, c. 657, Pt. EE, §5 (NEW).]

C. Records maintained by the agency are the sole property of the individual with intellectual disabilities or autism to whom the records pertain and the agency shall protect the records from loss, damage, tampering or use by unauthorized individuals. The agency shall keep the records confidential and may not release them without written consent from the individual with intellectual disabilities or autism or the individual's guardian. [PL 2013, c. 310, §5 (NEW).]

[PL 2013, c. 310, §5 (AMD).]

SECTION HISTORY

PL 2011, c. 657, Pt. EE, §5 (NEW). PL 2013, c. 310, §§2-5 (AMD).

SUBCHAPTER 2

PERSONS WITH INTELLECTUAL DISABILITIES OR AUTISM; SERVICES

§5201. Duties

The Department of Health and Human Services is responsible for: [PL 1995, c. 560, Pt. K, §47 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

1. Institutional programs.

[PL 2007, c. 356, §18 (RP); PL 2007, c. 356, §31 (AFF).]

2. Statewide system. The planning, promotion, coordination and development of a complete and integrated statewide system of services for adults with intellectual disabilities or autism;

[PL 2011, c. 542, Pt. A, §91 (AMD).]

3. Liaison. Serving as liaison, coordinator and consultant to the several state departments in order to develop the statewide system of services for adults with intellectual disabilities or autism;
[PL 2011, c. 542, Pt. A, §91 (AMD).]

4. Community-based services. Ensuring that adults with intellectual disabilities or autism residing in community residential facilities, including nursing homes, boarding homes, foster homes, group homes or halfway houses licensed by the Department of Health and Human Services, are provided, insofar as possible, with residential accommodations and access to habilitation services appropriate to their needs;
[PL 2011, c. 542, Pt. A, §91 (AMD).]

5. Protective and supportive services. Providing protective and supportive services, in accordance with section 5203, to incapacitated and dependent persons who, with some assistance, are capable of living and functioning in society;
[PL 2007, c. 356, §18 (AMD); PL 2007, c. 356, §31 (AFF).]

6. Individual support coordinators. Providing persons with intellectual disabilities or autism who are eligible for MaineCare services with case management services.

A. Case management services as defined in rules may be provided by qualified staff employed by the department or a contracted agency. [PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]

B. Unless otherwise specified in personal planning:

(1) Case managers shall maintain at least monthly contact with each person in order to ensure that the quality and availability of services and consumer satisfaction are maintained at a high level; and

(2) Visits to the person's home must occur at least twice a year. [PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]

C. The department shall ensure that case managers maintain adequate written and electronic records to permit monitoring and accountability. [PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]

D. The department shall provide sufficient numbers of case managers and supervisors to fulfill the duties specified in this subsection and shall maintain an overall ratio of one case manager to every 35 people in each region. The ratio must be calculated separately for staff employed by the department and by contracted agencies, and this ratio must be maintained for each group; [PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]
[PL 2011, c. 542, Pt. A, §92 (AMD).]

7. Crisis and respite. Provision of crisis and respite services to persons with intellectual disabilities or autism in accordance with section 5206; and
[PL 2011, c. 542, Pt. A, §92 (AMD).]

8. Quality assurance. Developing through its comprehensive planning process goals and objectives for the department's quality assurance program.

A. The department shall determine at least annually appropriate quality assurance activities and strategies to achieve the goals and objectives of the program, with the overall purpose of assessing the quality of services and supports, consumer and family satisfaction with such services and supports and the consistency of such services and supports with the principles guiding delivery of services and supports as set forth in section 5610. [PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]

B. The department shall prepare an annual report of its quality assurance activities and such other periodic reports as it determines appropriate. [PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]

C. The department shall develop appropriate procedures for formulating and disseminating recommendations emanating from its quality assurance activities and for ensuring follow-up of the implementation of such recommendations. [PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]

[PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]

9. Rules. The department shall adopt rules to implement this section as necessary. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 356, §18 (NEW); PL 2007, c. 356, §31 (AFF).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 410, §CCC28 (AMD). PL 1993, c. 738, §E1 (AMD). PL 1993, c. 738, §E6 (AFF). PL 1995, c. 560, §K47 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 356, §18 (AMD). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §§91, 92 (AMD).

§5202. Director

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 410, §CCC29 (RP).

§5203. Protective and supportive services

1. Department authority. The department may provide protective or supportive services in response to complaints concerning, and requests for assistance from or on behalf of, all incapacitated persons, under the following conditions.

A. Except for seeking the appointment of a guardian, protective or supportive services may be initiated only:

(1) With the acquiescence of the incapacitated person; and

(2) After consultation, insofar as possible, with the family or the guardian of the incapacitated person. [PL 1983, c. 459, §7 (NEW).]

B. The role of the department must be primarily that of supervision and coordination. [PL 1995, c. 560, Pt. K, §48 (AMD).]

[PL 1995, c. 560, Pt. K, §48 (AMD).]

2. Payment for services. Payment for services under this section is governed as follows.

A. The department may pay for protective and supportive services to incapacitated persons from its own resources, by mobilizing available community resources or by purchase of services from voluntary or state agencies. [PL 1995, c. 560, Pt. K, §49 (AMD).]

B. To the extent that assets are available to incapacitated persons or wards, the cost of services must be borne by the estate of persons receiving the services. [PL 1993, c. 410, Pt. CCC, §30 (AMD).]

C. The department may receive as payee any benefits from social security, veterans' administration, railroad retirement or any other like benefits paid on behalf of any incapacitated person, and shall apply those benefits toward the care and treatment of the incapacitated person. [PL 1995, c. 560, Pt. K, §49 (AMD).]

D. The department may operate an adaptive equipment program. Reimbursement for materials utilized in the manufacture of this equipment may be received and must be retained for use within the adaptive equipment program. [PL 1995, c. 560, Pt. K, §49 (AMD).]

[PL 1995, c. 560, Pt. K, §49 (AMD).]

3. Rules. Adoption, amendment and appeal of rules under this section are governed as follows.

A. The department shall adopt, and may amend or repeal, rules governing the administration of this section, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1995, c. 560, Pt. K, §50 (AMD).]

B. The department shall hold a public hearing before adopting, amending or repealing the rules, and shall give notice of the public hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1995, c. 560, Pt. K, §50 (AMD).]

[PL 1995, c. 560, Pt. K, §50 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 761, §G7 (AMD). PL 1993, c. 410, §CCC30 (AMD). PL 1995, c. 560, §§K48-50 (AMD).

§5204. Services for juveniles committed to the Maine Youth Center

(REPEALED)

SECTION HISTORY

PL 1983, c. 581, §56 (NEW). PL 1993, c. 410, §CCC31 (AMD). PL 1993, c. 738, §E2 (RP). PL 1993, c. 738, §E6 (AFF).

§5205. Payment of burial expenses for state wards

The department shall pay burial expenses for persons who died while wards of the department as defined in section 5001, subsection 7, and who have no known survivors. The department may first apply to the cost of burial any funds that are available as part of a mortuary trust or any other funds of the ward remaining at the time of the ward's death that are available for this purpose. [PL 1995, c. 560, Pt. K, §51 (AMD).]

SECTION HISTORY

PL 1989, c. 117 (NEW). PL 1993, c. 410, §CCC32 (AMD). PL 1995, c. 560, §K51 (AMD).

§5206. Crisis and respite services

The department shall provide crisis and respite services throughout the State in accordance with this section. [PL 2007, c. 356, §19 (NEW); PL 2007, c. 356, §31 (AFF).]

1. Crisis services. The department shall maintain the capacity to intervene in personal crises that could lead to the loss of the home, program or employment of a person with an intellectual disability or autism. Such capacity must include:

A. Assessment, consultation, planning, training and support for persons with intellectual disabilities or autism and their families or allies both before and after a crisis occurs; [PL 2011, c. 542, Pt. A, §93 (AMD).]

B. Providing staff support to prevent or respond to a crisis at the site of the crisis when appropriate; [PL 2007, c. 356, §19 (NEW); PL 2007, c. 356, §31 (AFF).]

C. Ensuring mental health supports when necessary, including access to a licensed mental health provider, inpatient treatment when indicated, psychiatric services and mental health aftercare services; and [PL 2007, c. 356, §19 (NEW); PL 2007, c. 356, §31 (AFF).]

D. Identifying appropriate professional services for the person in crisis. [PL 2007, c. 356, §19 (NEW); PL 2007, c. 356, §31 (AFF).]

[PL 2011, c. 542, Pt. A, §93 (AMD).]

2. Out-of-home services. The department shall provide out-of-home services in accordance with this subsection.

A. The department shall maintain an adequate capacity to provide out-of-home safety and support by trained staff with appropriate professional backup resources for a person with an intellectual disability or autism experiencing a crisis that cannot be safely managed at the person's residence. [PL 2011, c. 542, Pt. A, §93 (AMD).]

B. Unless otherwise specified in personal planning, crisis intervention services must be provided at a person's home, program or workplace when prevention efforts are not successful. The services must assist with admission to an appropriate out-of-home service in the event that intervention in the home, program or workplace is inappropriate. [PL 2007, c. 356, §19 (NEW); PL 2007, c. 356, §31 (AFF).]

[PL 2011, c. 542, Pt. A, §93 (AMD).]

3. Transportation. The department may not routinely use law enforcement entities to transport persons with intellectual disabilities or autism in crisis. Transportation of persons in crisis by law enforcement personnel may occur only if such transportation has been specifically authorized by the person's guardian or personal planning team or when determined by law enforcement personnel to be necessary to provide for the safety of the person or others.

[PL 2011, c. 542, Pt. A, §93 (AMD).]

4. Post-crisis review. A post-crisis review must occur no more than 10 working days after any out-of-home crisis placement. The review must include significant providers and supporters, including appropriate members of the person's planning team. The review must identify possible causes of the person's crisis and must recommend for the personal planning team changes in the person's environment, services and supports to prevent crises in the future.

[PL 2007, c. 356, §19 (NEW); PL 2007, c. 356, §31 (AFF).]

5. Respite services. The department shall maintain and fund a statewide respite system for planned or unplanned respite for persons with intellectual disabilities or autism and their families. The department shall, when appropriate, use the natural supports of a person in the development of respite services. For purposes of this subsection, "natural supports" means those supports provided by persons who are not disability service providers but who provide assistance, contact or companionship to enable a person with an intellectual disability or autism to participate independently in employment or other community settings.

[PL 2011, c. 542, Pt. A, §93 (AMD).]

6. Information regarding use. The department shall maintain information regarding use of crisis and respite services sufficient to plan and budget for adequate crisis and respite services. The information must include an assessment of the needs, both met and unmet, for crisis and respite services. The department shall provide information regarding the availability of services under this section and the proper means to obtain them to persons with intellectual disabilities or autism, their parents and allies, providers of services and other interested persons.

[PL 2011, c. 542, Pt. A, §93 (AMD).]

7. Training. The department shall offer regular and ongoing information, consultation and training on crisis prevention and intervention and respite services to its own staff, providers and persons with intellectual disabilities or autism and their families, guardians, correspondents and allies.

[PL 2011, c. 542, Pt. A, §93 (AMD).]

8. Rules. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2019, c. 290, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 356, §19 (NEW). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §93 (AMD). PL 2019, c. 290, §1 (AMD).

SUBCHAPTER 3

SERVICES FOR PERSONS WITH INTELLECTUAL DISABILITIES OR AUTISM

ARTICLE 1

STATE-OPERATED FACILITIES FOR MENTALLY RETARDED PERSONS

(REPEALED)

§5401. Maintenance of facilities

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 503, §6 (AMD). PL 1995, c. 395, §G14 (AMD). PL 1995, c. 395, §G20 (AFF). PL 1995, c. 550, §3 (AMD). PL 2005, c. 457, §NN5 (RP). PL 2005, c. 457, §NN8 (AFF).

§5402. Pineland Center

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 776 (AMD). PL 1993, c. 410, §CCC33 (AMD). PL 1993, c. 667, §§3-5 (AMD). PL 1995, c. 395, §G15 (RP). PL 1995, c. 395, §G20 (AFF).

§5403. Aroostook Residential Center

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 410, §CCC34 (AMD). PL 1993, c. 667, §6 (AMD). PL 1995, c. 395, §G16 (AMD). PL 1995, c. 395, §G20 (AFF). PL 1995, c. 560, §K52 (AMD). PL 2003, c. 20, §G1 (RP). PL 2003, c. 20, §G3 (AFF).

§5404. Elizabeth Levinson Center

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 503, §7 (RP).

§5405. Freeport Towne Square

(REPEALED)

SECTION HISTORY

PL 1995, c. 550, §4 (NEW). PL 2005, c. 457, §NN5 (RP). PL 2005, c. 457, §NN8 (AFF).

ARTICLE 2

COMMUNITY-BASED SERVICES

§5431. Purpose

The purpose of this Article is to assist in the establishment and expansion of community-based adult developmental services and programs for persons with intellectual disabilities or autism residing in the community and residing in privately operated residential care facilities. [PL 2011, c. 542, Pt. A, §94 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2011, c. 542, Pt. A, §94 (AMD).

§5432. Commissioner's duties

The commissioner shall: [PL 1983, c. 459, §7 (NEW).]

1. Community participation. Encourage persons in local communities to participate in the provision of supportive services for persons with intellectual disabilities or autism, so that persons in the community may have a better understanding of the need for those services;
[PL 2011, c. 542, Pt. A, §95 (AMD).]

2. Financial assistance. When offering assistance to community-based programs, follow the procedures set forth in this Article; and
[PL 1983, c. 459, §7 (NEW).]

3. Rules. Adopt rules, according to the Maine Administrative Procedure Act, Title 5, chapter 375, relating to the administration of the services authorized by this article and adopt major substantive rules, according to Title 5, chapter 375, subchapter 2-A, relating to rate setting pursuant to Public Law 2005, chapter 12, Part BBBB and Public Law 2005, chapter 519, Part CCC.
[PL 2007, c. 237, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 410, §CCC35 (AMD). PL 2007, c. 237, §1 (AMD). PL 2011, c. 542, Pt. A, §95 (AMD).

§5433. Commissioner's powers

The commissioner may: [PL 1983, c. 459, §7 (NEW).]

1. Financial aid. Allocate money for the development of group homes, capital construction, purchase of buildings, supportive services and for other activities, but only those applicants for funds whose programs provide for adequate standards of professional service qualify for funds from the department;
[PL 1983, c. 459, §7 (NEW).]

2. Services and programs. Provide and help finance adult developmental services and programs throughout the State for persons with intellectual disabilities or autism spectrum disorder or related conditions residing in the community and residing in privately owned residential care facilities;
[PL 2023, c. 89, §9 (AMD).]

3. Cooperation. Cooperate with other state agencies, municipalities, other governmental units, unincorporated associations and nonstock corporations in order to provide and help finance services and programs for persons with intellectual disabilities or autism;

[PL 2011, c. 542, Pt. A, §97 (AMD).]

4. Available funds. Receive and use for the purpose of this article money appropriated by the State, grants by the Federal Government, gifts from individuals and money from any other sources; and [PL 1985, c. 768, §6 (AMD).]

5. Transitional services coordination. Participate with school administrative units in transition planning for each student with developmental disabilities who will be eligible for services under chapter 5 or 6 who is receiving special education services and who is 16 years of age or older, or 14 years of age if determined appropriate by the student's individualized education program team, and shall assign appropriate staff as a transition contact person and as a member of the transition planning team for each student.
[PL 2011, c. 348, §10 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 768, §§6,7 (AMD). PL 2009, c. 147, §13 (AMD). PL 2011, c. 348, §10 (AMD). PL 2011, c. 542, Pt. A, §§96, 97 (AMD). PL 2023, c. 89, §9 (AMD).

§5434. Municipalities and other governmental units

1. Authorization. A municipality or other governmental unit, such as a county, school district or health district, through its local board of health or other town or governmental agency approved by the commissioner, may adopt and carry out a program of adult developmental services established or approved by the commissioner and appropriate money for that purpose.
[PL 2011, c. 542, Pt. A, §98 (AMD).]

2. Joint ventures. A municipality or other governmental unit may join with another municipality or governmental unit to carry out such a program.
[PL 1983, c. 459, §7 (NEW).]

3. Grants. Upon application to the department by a municipality or other governmental unit, the commissioner may grant to the applicant money to be used for carrying out its adult developmental services, including any necessary capital expenditures or purchase of buildings.
[PL 2011, c. 542, Pt. A, §98 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2011, c. 542, Pt. A, §98 (AMD).

§5435. Nongovernmental units

1. Department grants. Upon application to the department by an unincorporated association or nonstock corporation organized for the improvement of community health and welfare, the commissioner may grant to the applicant money to be used for carrying out its adult developmental services, including any necessary capital expenditures or purchase of buildings.
[PL 2011, c. 542, Pt. A, §99 (AMD).]

2. Department grants. The department may make grants to nonprofit corporations for amounts that are reasonable, relative to the quantity and quality of services to be provided by the grantee.

A. The department may request a display of effort on the part of the grantee that appropriate local governmental and other funding sources have been sought to assist in the financing of the services for which the department is making the grant. [PL 1995, c. 560, Pt. K, §53 (AMD).]

B. The department shall give consideration to the ability of the municipality or governmental unit to support the adult developmental services, as reflected by the State's evaluation of the component communities. [PL 2011, c. 542, Pt. A, §100 (AMD).]

C. In making grants to unincorporated associations or nonstock corporations, the department shall take into account all income and resources. [PL 1995, c. 560, Pt. K, §53 (AMD).]

[PL 2011, c. 542, Pt. A, §100 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 410, §CCC36 (AMD). PL 1995, c. 560, §K53 (AMD). PL 2011, c. 542, Pt. A, §§99, 100 (AMD).

§5436. Fees

1. Authority. Fees may be charged for services provided directly to individuals by any program authorized by the department, if the individual is financially able to pay.

[PL 1983, c. 459, §7 (NEW).]

2. Use. Fees received by a municipality, governmental unit, unincorporated association or nonstock corporation shall be used by each entity in carrying out its programs approved under this Article.

[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW).

§5437. Contingency fund

The department shall establish a contingency fund for use by persons with intellectual disabilities or autism who qualify for services under this chapter. This fund must be used in accordance with the following provisions. [PL 2021, c. 187, §1 (AMD).]

1. Approval of disbursements. Disbursements must be approved by the commissioner or the commissioner's designee.

[PL 1993, c. 410, Pt. CCC, §38 (AMD).]

2. List of approved usages. The commissioner or the commissioner's designee and representatives of community-based facilities shall develop a list of approved usages of contingency funds.

[PL 1993, c. 410, Pt. CCC, §38 (AMD).]

3. Approved usages; including. Approved usages of contingency funds include, but are not limited to, the following:

A. Payment for special client assessment and treatment services not reimbursed through the principles of reimbursement for intermediate care facilities for persons with intellectual disabilities or autism; [PL 2011, c. 542, Pt. A, §102 (AMD).]

B. Payment for special client needs, such as eyeglasses and wheelchairs and nonreimbursable medications; or [PL 1985, c. 486, §2 (NEW).]

C. Payment for special staff needs to ensure appropriate client treatment. [PL 1985, c. 486, §2 (NEW).]

[PL 2011, c. 542, Pt. A, §102 (AMD).]

4. Disbursement not to be approved. A disbursement for client needs may not be approved for any service or activity not recommended by a planning team or necessary to comply with regulations. A disbursement may not be made unless evidence is provided that the expense is not reimbursable by the Medicaid Program. It is the intent of the Legislature that the contingency fund established in this section be the funding source of last resort.

[PL 2003, c. 389, §1 (AMD).]

SECTION HISTORY

PL 1985, c. 486, §2 (NEW). PL 1987, c. 349, §H22 (AMD). PL 1987, c. 769, §A127 (AMD). PL 1989, c. 502, §A122 (AMD). PL 1993, c. 410, §§CCC37,38 (AMD). PL 1995, c. 560, §K54 (AMD). PL 2003, c. 389, §1 (AMD). PL 2011, c. 542, Pt. A, §§101, 102 (AMD). PL 2021, c. 187, §1 (AMD).

§5438. Services for adults with diagnoses of intellectual disabilities or other developmental disabilities

To the extent possible using available resources, the department shall provide adults with diagnoses of intellectual disabilities and other developmental disabilities choices from among an array of supports and services, including but not limited to: employment supports, personal supports, day programs and residential services. The department shall pursue appropriate resources for the supports and services needed by adults covered under this chapter. [PL 2011, c. 542, Pt. A, §103 (AMD).]

REVISOR'S NOTE: §5438. Program of state-funded consumer-directed personal care assistance services (As enacted by PL 2007, c. 240, Pt. OO, §2 is REALLOCATED TO TITLE 34-B, SECTION 5439)

SECTION HISTORY

PL 2007, c. 152, §1 (NEW). PL 2007, c. 240, Pt. OO, §2 (NEW). PL 2007, c. 695, Pt. A, §41 (RAL). PL 2011, c. 542, Pt. A, §103 (AMD).

§5439. Program of state-funded consumer-directed personal care assistance services

(REALLOCATED FROM TITLE 34-B, SECTION 5438)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applicant" means a person who has applied or is applying for services through the program. [PL 2007, c. 695, Pt. A, §41 (RAL).]

B. "Consumer" means a person who has been determined to be eligible under subsection 3. [PL 2007, c. 695, Pt. A, §41 (RAL).]

C. [PL 2011, c. 657, Pt. CC, §1 (RP).]

D. "Program" means the program of state-funded consumer-directed personal care assistance services. [PL 2007, c. 695, Pt. A, §41 (RAL).]
[PL 2011, c. 657, Pt. CC, §1 (AMD).]

2. Program administration. The commissioner shall administer the program under this section. Within available funds, the commissioner shall ensure that services are delivered in the most comprehensive manner possible and shall strive to maximize the participation of adults with disabilities. [PL 2011, c. 657, Pt. CC, §2 (AMD).]

3. Eligibility. An applicant is eligible for personal care assistance services under the program if the commissioner or the commissioner's designee determines that the person is an adult who:

A. Has a severe disability; [PL 2007, c. 695, Pt. A, §41 (RAL).]

B. Needs personal care assistance services or an attendant at night or both to prevent or remove the adult from inappropriate placement in an institutional setting; and [PL 2007, c. 695, Pt. A, §41 (RAL).]

C. Has no or insufficient personal income or other support from public services, family members or neighbors. [PL 2007, c. 695, Pt. A, §41 (RAL).]
[PL 2011, c. 657, Pt. CC, §2 (AMD).]

4. Consumer cost sharing. The commissioner shall establish a sliding scale for consumer cost sharing for services provided under the program. The sliding scale must be based on the net income of

the consumer, factoring in the expenses associated with the consumer's disability, and may take assets into consideration.
[PL 2011, c. 657, Pt. CC, §2 (AMD).]

5. Evaluation teams. The commissioner shall designate evaluation teams to assist the department with evaluations of applicants and consumers.

A. Each evaluation team must include the applicant or consumer and at least one registered nurse or registered occupational therapist. [PL 2007, c. 695, Pt. A, §41 (RAL).]

B. For each applicant or consumer evaluated by an evaluation team, the team shall assist the department to:

(1) Determine the eligibility of the applicant or consumer for services under the program;

(2) Determine the capability of the applicant or consumer, at the time of evaluation or after skills training provided pursuant to subsection 6, to hire and direct a personal care assistant; and

(3) Reevaluate the applicant or consumer periodically to determine continuing need for the services. [PL 2011, c. 657, Pt. CC, §3 (AMD).]
[PL 2011, c. 657, Pt. CC, §3 (AMD).]

6. Skills training. When sufficient funds are available, the commissioner shall arrange for skills training for consumers in the following areas by the following individuals:

A. Personal health management skills to maximize personal well-being in relation to the consumer's disability, including all aspects of prevention, maintenance and treatment techniques, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled; [PL 2007, c. 695, Pt. A, §41 (RAL).]

B. Personal care assistant management skills, including training in recruiting, hiring and managing a personal care assistant, scheduling and potential problems, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled; and [PL 2007, c. 695, Pt. A, §41 (RAL).]

C. Functional skills required to maximize the consumer's abilities in activities of daily living, provided by a registered occupational therapist or other qualified person experienced in the rehabilitation of the severely disabled. [PL 2007, c. 695, Pt. A, §41 (RAL).]
[PL 2007, c. 695, Pt. A, §41 (RAL).]

7. Relatives as providers. The department may not refuse to pay a relative of a consumer for the provision of services under the program if the relative is qualified to provide the services and payment is not prohibited by law or rule or federal regulation.
[PL 2007, c. 695, Pt. A, §41 (RAL).]

8. Review of reimbursement rates. By January 1, 2008 and every 2 years thereafter, the commissioner shall review the rates of reimbursement under the program. As part of the review, the following provisions apply.

A. The commissioner shall:

(1) Ensure the input of consumers, personal assistants and any organization that represents personal assistants regarding providing a livable wage for personal care assistance services. The commissioner may seek input through one or more public hearings or by other means determined reasonable by the commissioner. [PL 2009, c. 369, Pt. A, §34 (AMD).]

B. If the commissioner determines that an increase in one or more of the reimbursement rates is necessary after the review required in this subsection, the commissioner shall adopt rules to accomplish the required rate increase. In making a determination under this subsection, the

commissioner shall consider using any savings realized from an expansion of consumer-directed services to increase wages and benefits for personal care assistants. [PL 2007, c. 695, Pt. A, §41 (RAL).]

C. The commissioner shall determine rates of reimbursement that include allowable administrative costs and that use available resources to maximize wages and benefits for personal care assistants and hours of services for consumers. [PL 2007, c. 695, Pt. A, §41 (RAL).]

[PL 2009, c. 369, Pt. A, §34 (AMD).]

9. Rulemaking. The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A, except that rules regarding consumer cost sharing under subsection 4 are major substantive rules as defined by that subchapter.

[PL 2007, c. 695, Pt. A, §41 (RAL).]

SECTION HISTORY

PL 2007, c. 695, Pt. A, §41 (RAL). PL 2009, c. 369, Pt. A, §34 (AMD). PL 2011, c. 657, Pt. CC, §§1-3 (AMD).

ARTICLE 3

PROCEDURES

§5461. Definitions

As used in this Article, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 459, §7 (NEW).]

1. Advocate. "Advocate" means a person:

A. Who is familiar with the procedures involved in providing services to persons with intellectual disabilities or autism; and [PL 2011, c. 542, Pt. A, §104 (AMD).]

B. Who is capable of advocating solely on behalf of a person with an intellectual disability or autism. [PL 2011, c. 542, Pt. A, §104 (AMD).]

[PL 2011, c. 542, Pt. A, §104 (AMD).]

2. Client. "Client" means a person asking the department for adult developmental services or the person for whom those services are asked.

[PL 2011, c. 542, Pt. A, §104 (AMD).]

3. Community. "Community" means the municipality or other area in which the client resides when applying for services.

[PL 1983, c. 459, §7 (NEW).]

4. Comprehensive evaluation. "Comprehensive evaluation" means a comprehensive set of evaluations that:

A. Results in the distinguishing of intellectual disabilities and autism from other conditions; [PL 2011, c. 542, Pt. A, §104 (AMD).]

B. Determines the severity of disability resulting from an intellectual disability or autism and other conditions; and [PL 2011, c. 542, Pt. A, §104 (AMD).]

C. Estimates the degree to which the intellectual disability or autism and other conditions can be ameliorated. [PL 2011, c. 542, Pt. A, §104 (AMD).]

[PL 2011, c. 542, Pt. A, §104 (AMD).]

5. Facility.
[PL 2013, c. 21, §3 (RP).]

6. Habilitation. "Habilitation" means a process by which a person is assisted to acquire and maintain skills that:

A. Enable that person to cope more effectively with the demands of that person's own person and of the environment; [RR 2019, c. 2, Pt. B, §99 (COR).]

B. Raise the level of that person's physical, mental and social efficiency; and [RR 2019, c. 2, Pt. B, §99 (COR).]

C. Upgrade that person's sense of well-being. [RR 2019, c. 2, Pt. B, §99 (COR).]
[RR 2019, c. 2, Pt. B, §99 (COR).]

7. Interdisciplinary team.

[PL 2003, c. 389, §2 (RP).]

7-A. Likelihood of serious harm.

[PL 2013, c. 21, §4 (RP).]

8. Person in need of institutional services.
[PL 2013, c. 21, §5 (RP).]

8-B. Personal planning process. "Personal planning process" means a process of planning with a client for the coordination and delivery of supportive and other services through the development of a personal plan or service plan. The type of plan, participants and agenda at the planning meeting must be selected by the client or guardian.
[PL 2003, c. 389, §3 (NEW).]

8-C. Planning team. "Planning team" means those persons, including at a minimum the client, the client's guardian and the client's individual support coordinator and others selected by the client or guardian to participate, who develop a personal plan or service plan. The planning team may include family, friends, service providers, correspondents, advocates and others.
[PL 2003, c. 389, §3 (NEW).]

9. Prescriptive program plan.
[PL 2003, c. 389, §4 (RP).]

10. Professional. "Professional" means:

A. A person possessing appropriate licensure, certification or registration to practice that person's discipline in the community; or [RR 2019, c. 2, Pt. B, §100 (COR).]

B. Where licensure, certification or registration is not required, a person possessing a master's degree in the appropriate discipline or a person possessing a bachelor's degree in the appropriate discipline and 3 years' experience in treating persons with intellectual disabilities or autism or 3 years' experience in a related human services field. [PL 2011, c. 542, Pt. A, §107 (AMD).]
[RR 2019, c. 2, Pt. B, §100 (COR).]

10-A. Service plan. "Service plan" means one type of plan resulting from the personal planning process for the delivery and coordination of specific services to a client when:

A. The client or guardian has chosen this type of plan over a personal plan; or [PL 2003, c. 389, §5 (AMD).]

B. [PL 2003, c. 389, §5 (AMD).]

C. [PL 2003, c. 389, §5 (AMD).]

D. The client has either a single service need or routine service needs. [PL 2003, c. 389, §5 (AMD).]

[PL 2003, c. 389, §5 (AMD).]

11. Service agreement. "Service agreement" means a written form in which the persons designated in section 5471 agree to the type of services and programs for and the manner of providing services to the client.

[PL 1983, c. 459, §7 (NEW).]

12. Voluntary admission.

[PL 1983, c. 580, §14 (RP).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §§11-14 (AMD). PL 2003, c. 389, §§2-5 (AMD). PL 2011, c. 542, Pt. A, §§104-107 (AMD). PL 2013, c. 21, §§3-5 (AMD). RR 2019, c. 2, Pt. B, §§99, 100 (COR).

§5462. Procedure policies

1. Steps. It is the policy of the State that, in order to ensure that persons with intellectual disabilities or autism receive needed services, to the extent possible, the following steps must be taken for each person found by the department to have an intellectual disability or autism and be in need of services:

A. An assessment of the person's needs; [PL 1983, c. 459, §7 (NEW).]

B. The development of a personal plan or service plan for the delivery and coordination of services to the person through a personal planning process; and [PL 2013, c. 21, §6 (AMD).]

C. [PL 2013, c. 21, §7 (RP).]

D. Insofar as possible, obtaining high quality and suitable services for the person. [PL 1983, c. 459, §7 (NEW).]

[PL 2013, c. 21, §§6, 7 (AMD).]

2. Persons involved with procedures. It is the policy of the State that:

A. To the extent possible, the person with an intellectual disability or autism and the person's guardian or next of kin be involved with the steps specified in subsection 1; and [PL 2011, c. 542, Pt. A, §108 (AMD).]

B. An advocate be available to the person with an intellectual disability or autism throughout the steps specified in subsection 1. [PL 2011, c. 542, Pt. A, §108 (AMD).]

[PL 2011, c. 542, Pt. A, §108 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §15 (AMD). PL 2003, c. 389, §6 (AMD). PL 2011, c. 542, Pt. A, §108 (AMD). PL 2013, c. 21, §§6, 7 (AMD).

§5463. Notice

The commissioner shall provide the client, if the client is competent; the client's next of kin or guardian, if any exists; and the client's advocate with timely written notice in advance of procedures and actions to be taken with respect to the development, implementation and assessment of personal plans and service plans. [PL 2003, c. 389, §7 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2003, c. 389, §7 (AMD).

§5464. Correspondence and reports

The commissioner shall provide the client, if the client is competent, the client's next of kin or legal guardian, if any exists, and the client's advocate with access to copies of correspondence and reports concerning the client, in accordance with section 1207. [PL 1987, c. 769, Pt. A, §128 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1987, c. 769, §A128 (AMD).

§5465. Rules

1. Duty. The commissioner shall promulgate rules for the effective implementation of this Article. [PL 1983, c. 459, §7 (NEW).]

2. Requirements. The rules shall include, but need not be limited to, information on:

A. The membership, functions and procedures of the planning teams; [PL 2003, c. 389, §8 (AMD).]

B. The procedures to be used in developing personal plans and service plans and service agreements; [PL 2003, c. 389, §8 (AMD).]

C. The rights of clients while in departmental programs; and [PL 2013, c. 21, §8 (AMD).]

D. The rights and procedures for administrative review if there is dissatisfaction with any step of the process of receiving services specified in this Article, including provisions for the development of regional committees to review any dissatisfaction. [PL 2013, c. 21, §8 (AMD).]

[PL 2013, c. 21, §8 (AMD).]

3. Review. The joint standing committee of the Legislature having jurisdiction over health and institutional services shall review all rules promulgated by the department pursuant to this Article by no later than March of each year.
[PL 1983, c. 459, §7 (NEW).]

4. Public hearing and notice. The commissioner shall hold at least one public hearing before promulgating these rules and notice of any public hearing shall be given pursuant to the Maine Administrative Procedure Act, Title 5, section 8053.
[PL 1983, c. 459, §7 (NEW).]

5. Amendment or repeal. The commissioner may amend or repeal rules at any time after giving notice and holding a hearing, as prescribed in subsection 4, with respect to the rules amended or repealed.
[PL 1983, c. 459, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2003, c. 389, §8 (AMD). PL 2013, c. 21, §8 (AMD).

§5466. Advocate

1. Entitlement. Each client who receives services under sections 5467 to 5471 is entitled to have access to an advocate.
[PL 2013, c. 21, §9 (AMD).]

2. List. The commissioner shall develop a list of advocates for each region.
[PL 1995, c. 560, Pt. K, §55 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §16 (AMD). PL 1993, c. 410, §CCC39 (AMD). PL 1995, c. 560, §K55 (AMD). PL 2013, c. 21, §9 (AMD).

§5467. Application and preliminary procedures

1. Application. An application for adult developmental services, on a form provided by the commissioner, must be initiated at or referred to a regional office of the department. Except for referrals identifying a possible need for adult protective services, the department shall accept only those referrals to which the client or client's guardian has consented.
[PL 2011, c. 542, Pt. A, §109 (AMD).]

2. Preliminary procedures. Within 10 work days from the day of the department's receipt of the application and a permission for service form signed by the client or the client's guardian, the department shall:

A. Determine when a visit to observe the client in the client's current environment or other setting familiar and comfortable to the client will be appropriate and useful; [PL 2003, c. 389, §9 (AMD).]

B. Obtain a brief family survey; [PL 1983, c. 459, §7 (NEW).]

C. Make a preliminary identification of the client's abilities and needs and of the relevant services presently available to the client; [PL 2003, c. 389, §9 (AMD).]

D. Ensure the client's access to an advocate throughout the process of adult developmental services under sections 5467 to 5471; [PL 2013, c. 21, §10 (AMD).]

E. Determine what information is needed to establish eligibility; [PL 2003, c. 389, §9 (NEW).]

F. Provide services or referral for services to meet singular immediate needs for the client's health and safety; and [PL 2003, c. 389, §9 (NEW).]

G. Begin to gather information for a service plan or a personal plan. [PL 2003, c. 389, §9 (NEW).]
[PL 2013, c. 21, §10 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §17 (AMD). PL 1993, c. 410, §CCC40 (AMD). PL 1995, c. 560, §K56 (AMD). PL 2003, c. 389, §9 (AMD). PL 2011, c. 542, Pt. A, §§109, 110 (AMD). PL 2013, c. 21, §10 (AMD).

§5468. Evaluation

After completing the tasks specified in section 5467, subsection 2, the commissioner shall cause a comprehensive evaluation of the client, including a consideration of physical, emotional, social and cognitive factors, to be conducted if a recent comprehensive and informative evaluation is not already available to the department. [PL 2003, c. 389, §10 (AMD).]

1. Location. The comprehensive evaluation shall be conducted locally, except where resources required to carry out the evaluation are not available.
[PL 1983, c. 459, §7 (NEW).]

2. Comprehensive evaluation. The comprehensive evaluation must be conducted by a person who is a licensed physician, licensed clinical psychologist or licensed psychological examiner and who has had training and experience in the diagnosis and treatment of persons with intellectual disabilities or autism.
[PL 2011, c. 542, Pt. A, §111 (AMD).]

3. Evaluation of child.

[PL 1985, c. 503, §8 (RP).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §§18,19 (AMD). PL 1985, c. 503, §8 (AMD). PL 2003, c. 389, §10 (AMD). PL 2011, c. 542, Pt. A, §111 (AMD).

§5469. Report

Within 90 days of the day of the application made under section 5467, the department shall obtain a report of the comprehensive evaluation made under section 5468, which must state specifically whether or not the client has an intellectual disability or autism. [PL 2011, c. 542, Pt. A, §112 (AMD).]

1. Client without an intellectual disability or autism. If the comprehensive evaluation concludes that the client does not have an intellectual disability or autism, the department shall deny the application for services, care and treatment, but shall make appropriate referrals in cases where clear needs of the client exist.
[PL 2011, c. 542, Pt. A, §112 (AMD).]

2. Client with an intellectual disability or autism. If the comprehensive evaluation concludes that the client has an intellectual disability or autism and is in need of services:

A. The department, through the regional office, shall determine the client's case management status and develop a personal plan or service plan; and [PL 2003, c. 389, §11 (AMD).]

B. The department, through the planning team, shall develop a personal plan or service plan for the client within 45 days of the date of the determination of eligibility. Implementation of the plan is governed by section 5471, subsection 4. [PL 2003, c. 389, §11 (AMD).]
[PL 2011, c. 542, Pt. A, §112 (AMD).]

3. Preschool child. If the report of the comprehensive evaluation concludes that a child, aged 0 to 5 years, is developmentally delayed and is in need of infant development services or other early intervention services:

A. The department, through the regional office, shall develop a personal plan or service plan, or both; and [PL 2003, c. 389, §12 (AMD).]

B. If a personal plan is to be developed, the department, through the planning team, shall develop and begin to implement a personal plan for the client within 60 days of the application made under section 5467. [PL 2003, c. 389, §12 (AMD).]
[PL 2003, c. 389, §12 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §20 (RPR). PL 1995, c. 560, §K57 (AMD). PL 2003, c. 388, §1 (AMD). PL 2003, c. 389, §§11,12 (AMD). PL 2011, c. 542, Pt. A, §112 (AMD).

§5470. Prescriptive program plan

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §21 (AMD). PL 2003, c. 389, §13 (RP).

§5470-A. Personal planning process

(REPEALED)

SECTION HISTORY

PL 2003, c. 389, §14 (NEW). PL 2007, c. 356, §20 (RP). PL 2007, c. 356, §31 (AFF).

§5470-B. Personal planning

1. Right to personal planning. Every adult with an intellectual disability or autism who is eligible for services must be provided the opportunity to engage in a personal planning process in which the needs and desires of the person are articulated and identified.
[PL 2011, c. 542, Pt. A, §113 (AMD).]

2. Process. The personal planning opportunities afforded to a person with an intellectual disability or autism pursuant to subsection 1 must:

A. Be understandable to that person and in plain language and, if that person is deaf or nonverbal, uses sign language or speaks another language, the process must include qualified interpreters; [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

B. Focus on the choices made by that person; [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

C. Reflect and support the goals and aspirations of that person; [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

D. Be developed at the direction of that person and include people whom the person chooses to participate. The planning process must minimally include the person, the person's guardian, if any, the correspondent, if any, and the person's case manager; [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

E. Be flexible enough to change as new opportunities arise; [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

F. Be offered to that person at least annually or on a schedule established through the planning process and be reviewed according to a specified schedule and by a person designated for monitoring; [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

G. Include all of the needs and desires of that person without respect to whether those desires are reasonably achievable or the needs are presently capable of being addressed; and [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

H. Include a provision for ensuring the satisfaction of that person with the quality of the plan and the supports that the person receives. [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

[PL 2011, c. 542, Pt. A, §113 (AMD).]

3. Action plans and unmet needs. The ongoing personal planning for a person with an intellectual disability or autism must include an action plan that describes the services to be provided, the process of providing the services and who is responsible for overseeing the provision of the services. In cases where resources required to address identified needs or desires are not available, the action plan must identify interim measures based on available resources that address the needs or desires as nearly as possible and identify steps toward meeting the person’s actual identified needs.

Unmet needs must be documented continually, collated annually and used for appropriate development activities on a regional and statewide basis.

[PL 2011, c. 542, Pt. A, §113 (AMD).]

4. Review of personal plans. The person with an intellectual disability or autism or another member of the planning team may initiate a review of the person’s personal plan when needed or desired.

A. A review under this subsection must be done by meeting or by other means sufficient to address the needed or desired changes. The review must include the person, the person's guardian, if any, and the person's case manager. Invitations to participate may also be sent to others who may be anticipated to assist the person in pursuing articulated needs and desires unless the person or a private guardian objects. [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

B. Events that could lead to the loss of the person’s home, job or program and events defined in a departmental rule or in the person’s plan must lead to a plan review. [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

[PL 2011, c. 542, Pt. A, §113 (AMD).]

5. Information from planning process. During personal planning, the department shall develop and record information about a person's needs, identify anticipated needs without regard to service availability, define necessary support services, recommend optimal courses of action and include plans for the active and continued exploration of suitable program or service alternatives based on the person's needs.
[PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

6. Implementation of personal plan. As part of its implementation, the personal plan must be agreed to by the person or the person's legal guardian. The department shall assist persons with the needs identified by their planning process to obtain housing, employment or other meaningful occupation, medical and other professional therapeutic services, recreational and vocational opportunities and educational services at the earliest possible time, insofar as resources permit.
[PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

7. Records. The department shall maintain records of personal plans developed under this section.

A. The department shall maintain adequate written and electronic records of the development and implementation of personal plans to permit monitoring and accountability. [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

B. [PL 2013, c. 310, §6 (RP).]
[PL 2013, c. 310, §6 (AMD).]

8. Training. The department shall provide training in personal planning.

A. The department shall prepare and maintain a comprehensive manual describing the procedures to be followed in implementing a personal planning process. [PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

B. The department shall ensure the provision of regular and ongoing training in personal planning to persons with intellectual disabilities or autism and their families, guardians, correspondents and allies as well as its own staff and providers. The department shall regularly provide persons with intellectual disabilities or autism and their families, guardians and allies with informational materials regarding personal planning. [PL 2011, c. 542, Pt. A, §114 (AMD).]
[PL 2011, c. 542, Pt. A, §114 (AMD).]

9. Rules. The department is authorized to adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 356, §21 (NEW); PL 2007, c. 356, §31 (AFF).]

SECTION HISTORY

PL 2007, c. 356, §21 (NEW). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §§113, 114 (AMD). PL 2011, c. 657, Pt. EE, §6 (AMD). PL 2013, c. 310, §6 (AMD).

§5471. Service agreements

1. Service agreement required. Each personal plan or service plan must be carried out pursuant to a written service agreement.
[PL 2003, c. 389, §15 (AMD).]

2. Signatures. Each service agreement must be signed and dated by at least:

A. The client, if the client is able; [PL 2003, c. 389, §15 (AMD).]

B. The client's guardian or next of kin, if that person exists and is available; [PL 1983, c. 459, §7 (NEW).]

C. A client advocate, if the client has no guardian; [PL 1983, c. 459, §7 (NEW).]

D. The individual support coordinator of the planning team that developed the personal plan or service plan for the client; and [PL 2013, c. 21, §11 (AMD).]

E. [PL 2013, c. 21, §12 (RP).]

F. [PL 2013, c. 21, §13 (RP).]

G. The chief administrative officer, or the chief administrative officer's agent, of other public or private agencies or groups that agree to provide services to the client. [PL 2003, c. 389, §15 (AMD).]

[PL 2013, c. 21, §§11-13 (AMD).]

3. Contents. Each service agreement must include at least the following information.

A. It must specify the respective responsibilities, where applicable, of the client, the family or guardian of the client, the regional office and each public and private agency that intends to provide services to the client. [PL 2013, c. 21, §14 (AMD).]

B. It must identify by job classification or other description each individual who is responsible for carrying out each part of the service plan or personal plan. [PL 2003, c. 389, §15 (AMD).]

C. [PL 2003, c. 389, §15 (RP).]

[PL 2013, c. 21, §14 (AMD).]

4. Implementation of service plan or personal plan. Implementation of a service plan or personal plan is governed as follows.

A. No part of a service plan or personal plan may be implemented until each person required to sign the service agreement under subsection 2 has signed it. [PL 2013, c. 21, §15 (AMD).]

B. Any existing service plan or personal plan is considered to be in effect until all persons required to sign under subsection 2 have signed the new service agreement. [PL 2003, c. 389, §15 (AMD).]

C. A service plan or personal plan may not be in effect longer than one year and 2 weeks from the day on which the last person signed the service agreement for the plan. [PL 2003, c. 389, §15 (AMD).]

[PL 2013, c. 21, §15 (AMD).]

5. Review.

[PL 2003, c. 389, §15 (RP).]

6. Amendment. Any major changes in a client's service plan or personal plan may occur only after the service agreement has been amended and signed by the persons specified in subsection 2.

[PL 2003, c. 389, §15 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1995, c. 560, §K58 (AMD). PL 2003, c. 389, §15 (AMD). PL 2013, c. 21, §§11-15 (AMD).

§5472. Preadmission visit

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2013, c. 21, §16 (RP).

§5473. Voluntary admissions

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 410, §CCC41 (AMD). PL 1995, c. 395, §G17 (AMD). PL 1995, c. 395, §G20 (AFF). PL 1995, c. 560, §K59 (AMD). PL 2003, c. 389, §§16,17 (AMD). PL 2013, c. 21, §17 (RP).

§5474. Involuntary admissions

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1985, c. 503, §9 (AMD). PL 2011, c. 542, Pt. A, §115 (AMD). PL 2013, c. 21, §18 (RP).

§5475. Judicial certification procedures

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §22 (AMD). PL 1985, c. 397, §§1-2 (AMD). PL 1985, c. 503, §10 (AMD). RR 1995, c. 2, §88 (COR). PL 2001, c. 354, §3 (AMD). PL 2003, c. 389, §18 (AMD). PL 2003, c. 689, §B7 (REV). PL 2007, c. 539, Pt. N, §§68, 69 (AMD). PL 2011, c. 542, Pt. A, §116 (AMD). PL 2013, c. 21, §19 (RP).

§5476. Judicial commitment

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §23 (RPR). PL 1983, c. 763 (AMD). PL 2003, c. 389, §19 (AMD). PL 2011, c. 542, Pt. A, §117 (AMD). PL 2013, c. 21, §20 (RP).

§5477. Emergency procedures

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §§24,25 (AMD). PL 1987, c. 736, §55 (AMD). PL 2011, c. 542, Pt. A, §§118, 119 (AMD). PL 2013, c. 21, §21 (RP).

§5478. Continuation of treatment in a facility

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §26 (RPR). PL 2003, c. 389, §20 (AMD). PL 2011, c. 542, Pt. A, §120 (AMD). PL 2013, c. 21, §22 (RP).

§5479. Post-admission responsibilities of the department

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 2003, c. 389, §21 (AMD). PL 2013, c. 21, §23 (RP).

§5480. Client's right to leave facility

(REPEALED)

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §27 (AMD). PL 2003, c. 389, §22 (AMD). PL 2013, c. 21, §24 (RP).

§5481. Rates for fee-for-service programs

(REPEALED)

SECTION HISTORY

PL 1995, c. 685, §1 (NEW). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 539, Pt. Y, §1 (RP).

SUBCHAPTER 4

RIGHTS OF PERSONS WITH INTELLECTUAL DISABILITIES, AUTISM OR ACQUIRED BRAIN INJURY

§5601. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 459, §7 (NEW).]

1. Client.
[PL 1993, c. 326, §2 (RP).]

1-A. Ally. "Ally" means an individual who a person trusts to provide assistance.
[PL 2007, c. 356, §22 (NEW); PL 2007, c. 356, §31 (AFF).]

1-B. Behavior management. "Behavior management" means systematic strategies to prevent the occurrence of challenging behavior or to keep the person or others safe by reducing the factors that lead to challenging behavior or otherwise limiting the person's ability to engage in challenging behavior.
[PL 2011, c. 186, Pt. A, §2 (NEW).]

1-C. Behavior modification. "Behavior modification" means teaching strategies, positive support and other interventions to support a person to learn alternatives to challenging behavior.
[PL 2011, c. 186, Pt. A, §3 (NEW).]

1-D. Acquired brain injury. "Acquired brain injury" has the same meaning as in Title 22, section 3086, subsection 1.
[PL 2021, c. 284, Pt. A, §4 (NEW).]

2. Day facility.
[PL 2011, c. 186, Pt. A, §4 (RP).]

3. Express and informed consent. "Express and informed consent" means consent voluntarily given with sufficient knowledge and comprehension of the subject matter involved so as to enable the person giving consent to make an understanding and enlightened decision, without any element of force, fraud, deceit, duress or other form of constraint or coercion.
[PL 1983, c. 459, §7 (NEW).]

4. Habilitation. "Habilitation" means the process by which an individual is assisted to acquire and maintain those life skills that enable that individual to cope with the demands of that individual's own person and environment, to raise the level of that individual's physical, mental and social efficiency and to upgrade that individual's sense of well-being, including, but not limited to, programs of formal, structured education and treatment.
[RR 2019, c. 2, Pt. B, §101 (COR).]

5. Normalization principle. "Normalization principle" means the principle of assisting the person with an intellectual disability or autism to obtain an existence as close to normal as possible and making available to that person patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

[PL 2011, c. 542, Pt. A, §121 (AMD).]

5-A. Person receiving services. "Person receiving services" means a person with an intellectual disability or autism receiving services from the department or from an agency or facility licensed or funded to provide services to persons with intellectual disabilities or autism except those presently serving sentences for crime.
[PL 2011, c. 542, Pt. A, §122 (AMD).]

5-B. Provider. "Provider" means an entity, organization or individual providing services to an adult with an intellectual disability or autism, funded in whole or in part or licensed or certified by the department.
[PL 2011, c. 542, Pt. A, §123 (AMD).]

6. Residential facility.
[PL 2011, c. 186, Pt. A, §7 (RP).]

6-A. Restraint. "Restraint" means a mechanism or action that limits or controls a person's voluntary movement, deprives a person of the use of all or part of the person's body or maintains a person in an area against the person's will by another person's physical presence or coercion. "Restraint" does not include a prescribed therapeutic device or intervention or a safety device or practice.
[PL 2011, c. 186, Pt. A, §8 (NEW).]

6-B. Safety device or practice. "Safety device or practice" means a device or practice that has the effect of reducing or inhibiting a person's movement in any way but whose purpose is to maintain or ensure the safety of the person. "Safety device or practice" includes but is not limited to implements, garments, gates, barriers, locks or locking apparatuses, alarms, helmets, masks, gloves, straps, belts or protective gloves whose purpose is to maintain the safety of the person.
[PL 2011, c. 186, Pt. A, §9 (NEW).]

7. Seclusion. "Seclusion" means the solitary, involuntary confinement for any period of time of a person receiving services in a room or specific area from which egress is denied by a locking mechanism or barrier.
[PL 2011, c. 186, Pt. A, §10 (AMD).]

7-A. Supports. "Supports" means actions or assistance that empowers a person with an intellectual disability or autism to carry out life activities, build relationships and learn the skills necessary to meet the person's needs and desires.
[PL 2011, c. 542, Pt. A, §124 (AMD).]

7-B. Therapeutic device or intervention. "Therapeutic device or intervention" means an apparatus or activity prescribed by a qualified professional to achieve proper body position, balance or alignment or an action or apparatus that is designed to enhance sensory integration.
[PL 2011, c. 186, Pt. A, §12 (NEW).]

8. Treatment. "Treatment" means the prevention or amelioration of physical and mental disabilities or illness of a person or any actions or services designed to assist the person to maximize the person's independence and potential.
[PL 2011, c. 186, Pt. A, §13 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 326, §§2-7 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 356, §22 (AMD). PL 2007, c. 356, §31 (AFF). PL 2011, c. 186, Pt. A, §§2-13 (AMD). PL 2011, c. 542, Pt. A, §§121-124 (AMD). RR 2019, c. 2, Pt. B, §101 (COR). PL 2021, c. 284, Pt. A, §4 (AMD).

§5602. Purpose

It is the intent of the Legislature to guarantee individual dignity, liberty, pursuit of happiness and the protection of the civil and legal rights of persons with intellectual disabilities, autism or acquired brain injuries and to articulate rights of persons with intellectual disabilities, autism or acquired brain injuries, so that these rights may be exercised and protected. [PL 2021, c. 284, Pt. A, §5 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 326, §8 (AMD). PL 2011, c. 542, Pt. A, §125 (AMD). PL 2021, c. 284, Pt. A, §5 (AMD).

§5603. Entitlement

Each person with an intellectual disability, autism or an acquired brain injury is entitled to the rights enjoyed by citizens of the State and of the United States, unless some of these rights have been limited or suspended by a court of competent jurisdiction. [PL 2021, c. 284, Pt. A, §6 (AMD).]

1. Person committed to the commissioner. The rights and basic protections set out in section 5605 of a person with an intellectual disability, autism or an acquired brain injury who is committed to the commissioner as not criminally responsible pursuant to Title 15, section 103 or as incompetent to stand trial pursuant to Title 15, section 101-D may be limited or suspended only if the commissioner submits to the applicable court a written treatment plan that specifies each limitation of a right or basic protection and the treatment plan has been approved by the court.
[PL 2021, c. 284, Pt. A, §6 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 326, §8 (AMD). PL 2011, c. 186, Pt. A, §14 (AMD). PL 2011, c. 542, Pt. A, §126 (AMD). PL 2021, c. 284, Pt. A, §6 (AMD).

§5604. Protection

The Legislature finds and declares that the rights of persons with intellectual disabilities, autism or acquired brain injuries can be protected best under a system of services that operates according to the principles of normalization and full inclusion and that the State's system of services must operate according to these principles with the goals of: [PL 2021, c. 284, Pt. A, §7 (AMD).]

1. Community-based services. Continuing the development of community-based services that provide reasonable alternatives to institutionalization in settings that are least restrictive to the person receiving services;
[PL 2007, c. 356, §23 (AMD); PL 2007, c. 356, §31 (AFF).]

2. Independence and productivity. Providing habilitation, education and other training to persons with intellectual disabilities or autism that will maximize each person's potential to lead an independent and productive life and that will afford opportunities for full inclusion into the community where each person lives; and
[PL 2011, c. 542, Pt. A, §127 (AMD).]

3. Grievance right. Providing a person with an intellectual disability, autism or an acquired brain injury with the right to appeal a decision regarding actions or inactions by the department that affects the person's life. The department shall establish in rule a process for hearing such grievances pursuant to Title 22-A, section 206, subsection 4. The rules must contain strict time frames for the resolution of grievances. The rules may provide for resolution of grievances through mediation.

A. The department shall provide easily accessible and regular notice of the grievance process to persons with intellectual disabilities, autism or acquired brain injuries served by the department. This notice must be included in informational materials provided to such persons, as well as to guardians, families, correspondents and allies. Notice of the right to appeal must be prominently displayed in regional offices and on the department's publicly accessible website and must be readily available from provider agencies. Notice of the right to appeal must be included in all

substantive correspondence regarding personal planning. Written notice of the right to appeal must also be provided when there is a denial or reduction of services or supports to persons served by the department. All notices and information regarding the grievance process must be written in language that is plain and understandable and must include the address and telephone number of the protection and advocacy agency designated pursuant to Title 5, section 19502. [PL 2021, c. 284, Pt. A, §8 (AMD).]

B. The department must make available a one-page form that enables a person with an intellectual disability, autism or an acquired brain injury to file a grievance. A grievance may also be filed through an oral request. If a grievance is filed through an oral request, the person receiving the grievance shall reduce the grievance to writing using a one-page form made available by the department. [PL 2021, c. 284, Pt. A, §8 (AMD).]

C. The department shall offer regular training in the grievance process for persons served by the department, their families, guardians and allies and department and service provider staff. [PL 2007, c. 356, §23 (NEW); PL 2007, c. 356, §31 (AFF).]

D. If an appeal proceeds to a hearing, the hearing officer's decision constitutes final agency action for the purposes of Rule 80C of the Maine Rules of Civil Procedure unless final decision-making authority has been reserved by the commissioner. If the commissioner makes the final decision and modifies or rejects the hearing officer’s recommended decision, the commissioner must state in writing the basis for the commissioner's decision. When the commissioner rejects or modifies a hearing officer’s factual findings or makes additional factual findings, the commissioner shall articulate the evidentiary basis for such rejection or modification with appropriate references to the record. The commissioner shall give substantial deference to a hearing officer’s determinations on matters of credibility relating to testimony that was heard by the hearing officer, and when rejecting or modifying such determinations of credibility, the commissioner shall state with particularity the reasons with appropriate references to evidence in the record. In the event the commissioner fails to issue a written final decision within 30 days of the date of the recommended decision, the recommended decision of the hearing officer is deemed the final decision of the commissioner. [PL 2007, c. 356, §23 (NEW); PL 2007, c. 356, §31 (AFF).]

[PL 2021, c. 284, Pt. A, §8 (AMD).]

4. Rules.

[PL 2011, c. 186, Pt. A, §16 (RP).]

The rights and basic protections of a person with an intellectual disability, autism or an acquired brain injury under section 5605 may not be restricted or waived by that person's guardian, except as permitted by rules adopted pursuant to this section. [PL 2021, c. 284, Pt. A, §9 (AMD).]

The department has authority to adopt rules to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 186, Pt. A, §17 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 326, §8 (AMD). PL 2007, c. 356, §23 (AMD). PL 2007, c. 356, §31 (AFF). RR 2009, c. 1, §23 (COR). PL 2011, c. 186, Pt. A, §§15-17 (AMD). PL 2011, c. 542, Pt. A, §127 (AMD). PL 2011, c. 657, Pt. EE, §7 (AMD). PL 2021, c. 284, Pt. A, §§7-9 (AMD).

§5604-A. Duty to report incidents; Adult Protective Services Act and rights violations

1. Report incident. A person with knowledge about an incident related to client care, including client-to-client assault, staff-to-client assault, use of seclusion or excessive use of mechanical or chemical restraint, incidents stemming from questionable psychiatric and medical practice or any other

alleged abuse or neglect, shall immediately report the details of that incident pursuant to policies and procedures established by the department in rules.
[PL 2007, c. 356, §24 (NEW); PL 2007, c. 356, §31 (AFF).]

2. Maintain reporting system. The department shall maintain a reportable event and adult protective services system that provides for receiving reports of alleged incidents, prioritizing such reports, assigning reports for investigation by qualified investigators, reviewing the adequacy of the investigations, making recommendations for preventive and corrective actions as appropriate and substantiating allegations of abuse, neglect or exploitation in accordance with Title 22, chapter 958-A. The department shall fully establish the reportable event and adult protective services system through rulemaking.
[PL 2019, c. 661, §4 (AMD).]

3. Violation. All persons with knowledge of an alleged violation of the rights of an individual with an intellectual disability or autism as set out in section 5605 shall promptly report the details of the alleged violation to the advocacy agency designated pursuant to Title 5, section 19502 as set forth in department rules.
[PL 2011, c. 657, Pt. EE, §8 (AMD).]

4. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 356, §24 (NEW); PL 2007, c. 356, §31 (AFF).]

SECTION HISTORY

PL 2007, c. 356, §24 (NEW). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §128 (AMD). PL 2011, c. 657, Pt. EE, §8 (AMD). PL 2019, c. 661, §4 (AMD). PL 2021, c. 284, Pt. A, §3 (AMD).

§5605. Rights and basic protections of a person with an intellectual disability, autism or an acquired brain injury

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

A person with an intellectual disability or autism is entitled to the following rights and basic protections. A person with an acquired brain injury is entitled to the rights and basic protections outlined in subsections 1 to 11. [PL 2021, c. 284, Pt. A, §11 (AMD).]

1. Humane treatment. A person with an intellectual disability, autism or an acquired brain injury is entitled to dignity, privacy and humane treatment.
[PL 2021, c. 284, Pt. A, §12 (AMD).]

2. Practice of religion. A person with an intellectual disability, autism or an acquired brain injury is entitled to religious freedom and practice without any restriction or forced infringement on that person's right to religious preference and practice.
[PL 2021, c. 284, Pt. A, §13 (AMD).]

3. Communications. A person with an intellectual disability, autism or an acquired brain injury is entitled to private communications.

A. A person with an intellectual disability, autism or an acquired brain injury is entitled to receive, send and mail sealed, unopened correspondence. A person who is a provider may not delay, hold or censor any incoming or outgoing correspondence of any person with an intellectual disability, autism or an acquired brain injury, nor may any such correspondence be opened without the consent of the person or the person's legal guardian. [PL 2021, c. 284, Pt. A, §14 (AMD).]

B. A person with an intellectual disability, autism or an acquired brain injury is entitled to reasonable opportunities for telephone and Internet communication. [PL 2021, c. 284, Pt. A, §14 (AMD).]

C. A person with an intellectual disability, autism or an acquired brain injury is entitled to an unrestricted right to visitations during reasonable hours unless this right has been restricted pursuant to rules adopted pursuant to section 5604. [PL 2021, c. 284, Pt. A, §14 (AMD).]

[PL 2021, c. 284, Pt. A, §14 (AMD).]

4. Work. A person with an intellectual disability, autism or an acquired brain injury engaged in work programs that require compliance with state and federal wage and hour laws is entitled to fair compensation for labor in compliance with regulations of the United States Department of Labor.

[PL 2021, c. 284, Pt. A, §15 (AMD).]

5. Vote. A person with an intellectual disability, autism or an acquired brain injury may not be denied the right to vote.

[PL 2021, c. 284, Pt. A, §16 (AMD).]

6. Personal property. A person with an intellectual disability, autism or an acquired brain injury is entitled to the possession and use of that person's own clothing, personal effects and money, except when temporary custody of clothing or personal effects by a provider is necessary to protect the person or others from imminent injury or unless this right has been restricted pursuant to rules adopted pursuant to section 5604.

[PL 2021, c. 284, Pt. A, §17 (AMD).]

7. Nutrition. A person with an intellectual disability, autism or an acquired brain injury is entitled to nutritious food in adequate quantities and meals may not be withheld for disciplinary reasons.

[PL 2021, c. 284, Pt. A, §18 (AMD).]

8. Medical care. A person with an intellectual disability, autism or an acquired brain injury is entitled to receive prompt and appropriate medical and dental treatment and care for physical and mental ailments and for the prevention of any illness or disability, and medical treatment must be consistent with the accepted standards of medical practice in the community, unless the religion of the person with an intellectual disability, autism or an acquired brain injury so prohibits.

A. Medication may be administered only at the written order of a physician. [PL 1983, c. 459, §7 (NEW).]

B. Medication may not be used as punishment, for the convenience of staff, as a substitute for a habilitation plan or in unnecessary or excessive quantities. [PL 1983, c. 459, §7 (NEW).]

C. Daily notation of medication received by each person with an intellectual disability, autism or an acquired brain injury must be kept in the records of the person with an intellectual disability, autism or an acquired brain injury. [PL 2021, c. 284, Pt. A, §19 (AMD).]

D. Periodically, but no less frequently than every 6 months, the drug regimen of each person with an intellectual disability, autism or an acquired brain injury must be reviewed by a physician or other appropriate monitoring body, consistent with appropriate standards of medical practice. [PL 2021, c. 284, Pt. A, §19 (AMD).]

E. All prescriptions must have a termination date. [PL 1993, c. 326, §9 (AMD).]

F. [PL 2011, c. 186, Pt. A, §24 (RP).]

G. Prior to instituting a plan of experimental medical treatment or carrying out any surgical procedure, express and informed consent must be obtained from the person with an intellectual disability, autism or an acquired brain injury, unless the person has been found to be legally incompetent, in which case the person's guardian may consent.

(1) Before making a treatment or surgical decision, the person must be given information, including, but not limited to, the nature and consequences of the procedures, the risks, benefits and purposes of the procedures and the availability of alternate procedures.

(2) The person or, if legally incompetent, that person's guardian may withdraw express and informed consent at any time, with or without cause, before treatment or surgery. [PL 2021, c. 284, Pt. A, §19 (AMD).]

H. Notwithstanding the absence of express and informed consent, emergency medical care or treatment may be provided to any person with an intellectual disability, autism or an acquired brain injury who has been injured or who is suffering from an acute illness, disease or condition if delay in initiation of emergency medical care or treatment would endanger the health of the person. [PL 2021, c. 284, Pt. A, §19 (AMD).]

I. Notwithstanding the absence of express and informed consent, emergency surgical procedures may be provided to any person with an intellectual disability, autism or an acquired brain injury who has been injured or who is suffering from an acute illness, disease or condition if delay in initiation of emergency surgery would substantially endanger the health of the person. [PL 2021, c. 284, Pt. A, §19 (AMD).]

[PL 2021, c. 284, Pt. A, §19 (AMD).]

9. Sterilization. A person with an intellectual disability, autism or an acquired brain injury may not be sterilized, except in accordance with chapter 7.

[PL 2021, c. 284, Pt. A, §20 (AMD).]

10. Social activity. A person with an intellectual disability, autism or an acquired brain injury is entitled to opportunities for behavioral and leisure time activities that include social interaction in the community, as set out in section 5610. This right may be waived or restricted only under the rules adopted pursuant to section 5604 or pursuant to a treatment plan approved pursuant to section 5603, subsection 1.

[PL 2021, c. 284, Pt. A, §21 (AMD).]

11. Physical exercise. A person with an intellectual disability, autism or an acquired brain injury is entitled to opportunities for appropriate physical exercise, including the use of available indoor and outdoor facilities and equipment.

[PL 2021, c. 284, Pt. A, §22 (AMD).]

12. Discipline. Discipline of persons with intellectual disabilities or autism is governed as follows.

A. [PL 2011, c. 186, Pt. A, §26 (RP).]

B. Corporal punishment or any form of inhumane discipline is not permitted. [PL 1983, c. 459, §7 (NEW).]

C. Seclusion as a form of discipline is not permitted. [PL 2011, c. 186, Pt. A, §26 (AMD).]

D. [PL 1993, c. 326, §9 (RP).]

E. **(TEXT EFFECTIVE UNTIL 4/01/26)** A provider of residential services may establish house rules in a residential unit owned or operated by the provider. A person receiving services who resides in the unit is entitled to participate, as appropriate, in the formulation of the house rules. A house rule must be uniformly applied to all residents of the residential unit where the rules apply. A copy of the house rules must be posted in a residential unit where the rules apply and a copy of the rules must be given to all residents who receive services and, if any resident is under guardianship, to the guardian of the person receiving services. [PL 2011, c. 186, Pt. A, §26 (NEW).]

E. **(TEXT REPEALED 4/01/26)** [PL 2025, c. 276, §1 (RP); PL 2025, c. 276, §10 (AFF).]

[PL 2011, c. 542, Pt. A, §129 (AMD); PL 2025, c. 276, §1 (AMD); PL 2025, c. 276, §10 (AFF).]

13. (TEXT EFFECTIVE UNTIL 4/01/26) Behavioral support, modification and management. Behavior modification and behavior management of and supports for a person with an

intellectual disability or autism who is not a patient in a psychiatric unit of an acute hospital or a psychiatric hospital as defined in section 3801, subsection 7-B are governed as follows.

A. A person with an intellectual disability or autism may not be subjected to a behavior modification or behavior management program to eliminate dangerous or maladaptive behavior without first being assessed by a physician to determine if the proposed program is medically contraindicated and that the dangerous or maladaptive behavior could not be better treated medically. [PL 2011, c. 542, Pt. A, §129 (AMD).]

A-1. Support programs may contain both behavior modification and behavior management components. [PL 2011, c. 186, Pt. A, §27 (AMD).]

A-2. The following practices are prohibited as elements of behavior modification or behavior management programs:

(1) Seclusion;

(2) Corporal punishment;

(3) Actions or language intended to humble, dehumanize or degrade the person;

(4) Restraints that do not conform to rules adopted pursuant to this section;

(5) Totally enclosed cribs or beds; and

(6) Painful stimuli. [PL 2011, c. 186, Pt. A, §27 (NEW).]

B. Behavior modification and behavior management programs may be used only to correct behavior more harmful to the person than the program and only:

(1) On the recommendation of the person's personal planning team;

(2) For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of a representative from the department, a representative from the advocacy agency designated pursuant to Title 5, section 19502 and a representative designated by the Maine Developmental Services Oversight and Advisory Board. The advocacy agency representative serves as a nonvoting member of the review team and shall be present to advocate on behalf of the person. The department shall provide sufficient advance notice of all scheduled review team meetings to the advocacy agency and provide the advocacy agency with any plans for which approval is sought along with any supporting documentation; and

(3) For a child under 18 years of age, with the approval, following a case-by-case review, of a review team composed of a representative from the advocacy agency designated pursuant to Title 5, section 19502, a team leader of the department's children's services division and the children's services medical director or the director's designee. The advocacy agency representative serves as a nonvoting member of the review team and shall be present to advocate on behalf of the person. The department shall provide sufficient advance notice of all scheduled review team meetings to the advocacy agency and provide the advocacy agency with any plans for which approval is sought along with any supporting documentation. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in nonmedical community-based facilities funded under the Medicaid program. [PL 2013, c. 310, §7 (AMD).]

C. [PL 2011, c. 186, Pt. A, §27 (RP).]
[PL 2013, c. 500, §1 (AMD).]

13. (TEXT EFFECTIVE 4/01/26) Behavioral health support, modification and management for children. Behavior modification and behavior management of and supports for a person who has

not attained 18 years of age with an intellectual disability or autism and who is not a patient in a psychiatric unit of an acute hospital or a psychiatric hospital as defined in section 3801, subsection 7-B are governed as follows.

A. A person who has not attained 18 years of age with an intellectual disability or autism may not be subjected to a behavior modification or behavior management program to eliminate dangerous or maladaptive behavior without first being assessed by a physician to determine if the proposed program is medically contraindicated and that the dangerous or maladaptive behavior could not be better treated medically. [PL 2025, c. 276, §2 (AMD); PL 2025, c. 276, §10 (AFF).]

A-1. Support programs may contain both behavior modification and behavior management components. [PL 2011, c. 186, Pt. A, §27 (AMD).]

A-2. The following practices are prohibited as elements of behavior modification or behavior management programs:

(1) Seclusion;

(2) Corporal punishment;

(3) Actions or language intended to humble, dehumanize or degrade the person;

(4) Restraints that do not conform to rules adopted pursuant to this section;

(5) Totally enclosed cribs or beds; and

(6) Painful stimuli. [PL 2011, c. 186, Pt. A, §27 (NEW).]

B. Behavior modification and behavior management programs may be used only to correct behavior more harmful to the person than the program and only:

(1) On the recommendation of the person's personal planning team; and

(3) With the approval, following a case-by-case review, of a review team composed of a representative from the advocacy agency designated pursuant to Title 5, section 19502, a team leader of the department's children's services division and the children's services medical director or the director's designee. The advocacy agency representative serves as a nonvoting member of the review team and shall be present to advocate on behalf of the person. The department shall provide sufficient advance notice of all scheduled review team meetings to the advocacy agency and provide the advocacy agency with any plans for which approval is sought along with any supporting documentation. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the United States Secretary of Health and Human Services regarding treatment of children and youth in nonmedical community-based facilities funded under the Medicaid program. [PL 2025, c. 276, §2 (AMD); PL 2025, c. 276, §10 (AFF).]

C. [PL 2011, c. 186, Pt. A, §27 (RP).]
[PL 2025, c. 276, §2 (AMD); PL 2025, c. 276, §10 (AFF).]

13-A. (TEXT EFFECTIVE 4/01/26) Behavioral health support, modification and management for adults. Behavioral supports for an adult with an intellectual disability or autism who is not a patient in a psychiatric unit of an acute hospital or a psychiatric hospital as defined in section 3801, subsection 7-B are governed as follows.

A. An adult with an intellectual disability or autism may have a positive behavioral health support plan if recommended by the individual's person-centered support team or requested by the adult. If the positive support plan is to address dangerous or maladaptive behavior, it must be preceded by an assessment by a medical practitioner, as defined in section 3801, subsection 4-B, to rule out medical reasons for the behavior. [PL 2025, c. 276, §3 (NEW); PL 2025, c. 276, §10 (AFF).]

B. A positive behavioral health support plan designed to support the adult to participate meaningfully in that adult's community life cannot include a waiver of any rights provided in this section and may be implemented upon recommendation of the adult's person-centered planning team. [PL 2025, c. 276, §3 (NEW); PL 2025, c. 276, §10 (AFF).]

C. A modifying behavioral health support plan designed to modify or redirect the adult's behavior may include a waiver of rights with informed consent of the adult subject to the plan and must be approved by the department for approval prior to implementation. The plan must be reviewed and approved by a licensed clinical social worker or psychologist who is employed by or under contract with the department. [PL 2025, c. 276, §3 (NEW); PL 2025, c. 276, §10 (AFF).]

D. The following practices are prohibited as elements of positive behavioral health support plans and modifying behavioral health support plans for adults:

(1) Seclusion;

(2) Corporal punishment;

(3) Actions or language intended to humble, dehumanize or degrade the person;

(4) Planned use of restraints;

(5) Totally enclosed cribs or beds; and

(6) Painful stimuli. [PL 2025, c. 276, §3 (NEW); PL 2025, c. 276, §10 (AFF).]

The department shall convene a support and safety committee, at least quarterly, to review data on the number and types of plans implemented for adults under this subsection. The department shall provide to the committee deidentified copies of positive behavioral health support plans for all individuals transitioning from a modifying behavioral health support plan to a positive behavioral health support plan. The committee must include, at a minimum, a self-advocate, a family member of the individual receiving services, a representative of the advocacy agency designated pursuant to Title 5, section 19502, a member of the Maine Developmental Services Oversight and Advisory Board established pursuant to Title 5, section 12004-J, subsection 15 and the licensed clinical social worker or psychologist employed by or under contract with the department under paragraph C.

For the purposes of this subsection, "adult" means a person 18 years of age or older; "modifying behavioral health support plan" means a support plan that outlines strategies to encourage positive behavior and address challenges, incorporating both proactive and corrective interventions; and "positive behavioral health support plan" means a behavioral health support plan that emphasizes using positive reinforcement and proactive strategies to address behaviors that negatively impact the health, safety and well-being of the person.

For the purposes of this subsection, "restraint" does not include blocking or physical redirection. Blocking is a momentary deflection of a person's movement without holding when that movement would be destructive or harmful. Physical redirection is steering a person without holding or coercion. [PL 2025, c. 276, §3 (NEW); PL 2025, c. 276, §10 (AFF).]

13-B. (TEXT EFFECTIVE 4/01/26) Safety devices for adults. The use of a safety device for an adult with an intellectual disability or autism is governed as follows.

A. For the purposes of this subsection, "safety device" means an implement, garment, gate, barrier, lock or locking apparatus, video monitoring or video recording device, helmet, mask, glove, strap, belt or protective glove, the effect of which is to reduce or inhibit the adult's movement with the sole purpose of maintaining the safety of the adult. "Safety device" does not include anything used as a means of behavior modification. [PL 2025, c. 276, §4 (NEW); PL 2025, c. 276, §10 (AFF).]

B. The use of a safety device must be pursuant to a written recommendation from a licensed physician, certified nurse practitioner or licensed physician associate. [PL 2025, c. 276, §4 (NEW); PL 2025, c. 276, §10 (AFF); PL 2025, c. 316, §3 (REV).]

C. The use of a safety device must be approved by the adult's personal planning team, and that approval must be recorded in a document that is part of the adult's planning record. [PL 2025, c. 276, §4 (NEW); PL 2025, c. 276, §10 (AFF).]

D. The adult or the adult's guardian must consent to the use of the safety device. [PL 2025, c. 276, §4 (NEW); PL 2025, c. 276, §10 (AFF).]

E. When a safety device is in use and that safety device may affect other adults residing in the home or participating in the program by restricting their rights, accommodations must be identified and implemented to minimize the effect on the other adults. The personal plan of each adult affected by the use of the safety device must indicate how that adult will be supported to minimize the negative effect of the restriction. [PL 2025, c. 276, §4 (NEW); PL 2025, c. 276, §10 (AFF).]

F. When a video monitoring device or video recording device is in use and other adults residing in the home or participating in the program may trigger or appear on the video monitoring device or video recording device, the consent of that adult must be obtained. [PL 2025, c. 276, §4 (NEW); PL 2025, c. 276, §10 (AFF).]

[PL 2025, c. 276, §4 (NEW); PL 2025, c. 276, §10 (AFF); PL 2025, c. 316, §3 (REV).]

14. Physical restraints.

[PL 2007, c. 573, §1 (RP).]

14-A. (TEXT EFFECTIVE UNTIL 4/01/26) Restraints. A person with an intellectual disability or autism is entitled to be free from restraint unless:

A. The restraint is a short-term step to protect the person from imminent injury to that person or others; or [PL 2011, c. 186, Pt. A, §28 (AMD).]

B. The restraint has been approved as a behavior management program in accordance with this section. [PL 2011, c. 186, Pt. A, §28 (AMD).]

A restraint may not be used as punishment, for the convenience of the staff or as a substitute for habilitative services. A restraint may impose only the least possible restriction consistent with its purpose and must be removed as soon as the threat of imminent injury ends. A restraint may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety.

Daily records of the use of restraints identified in paragraph A must be kept, which may be accomplished by meeting reportable event requirements.

Daily records of the use of restraints identified in paragraph B must be kept, and a summary of the daily records pertaining to the person must be made available for review by the person's planning team, as defined in section 5461, subsection 8-C, on a schedule determined by the team. The review by the personal planning team may occur no less frequently than quarterly. The summary of the daily records must state the type of restraint used, the duration of the use and the reasons for the use. A monthly summary of all daily records pertaining to all persons must be relayed to the advocacy agency designated pursuant to Title 5, section 19502.

[PL 2011, c. 657, Pt. EE, §10 (AMD).]

14-A. (TEXT EFFECTIVE 4/01/26) Restraints for children. A person who has not attained 18 years of age with an intellectual disability or autism is entitled to be free from restraint unless:

A. The restraint is a short-term step to protect the person from imminent injury to that person or others; or [PL 2011, c. 186, Pt. A, §28 (AMD).]

B. The restraint has been approved as a behavior management program in accordance with this section. [PL 2011, c. 186, Pt. A, §28 (AMD).]

A restraint may not be used as punishment, for the convenience of the staff or as a substitute for habilitative services. A restraint may impose only the least possible restriction consistent with its purpose and must be removed as soon as the threat of imminent injury ends. A restraint may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety.

Daily records of the use of restraints identified in paragraph A must be kept, which may be accomplished by meeting reportable event requirements.

Daily records of the use of restraints identified in paragraph B must be kept, and a summary of the daily records pertaining to the person must be made available for review by the person's planning team, as defined in section 5461, subsection 8-C, on a schedule determined by the team. The review by the personal planning team may occur no less frequently than quarterly. The summary of the daily records must state the type of restraint used, the duration of the use and the reasons for the use. A monthly summary of all daily records pertaining to all persons must be relayed to the advocacy agency designated pursuant to Title 5, section 19502.
[PL 2025, c. 276, §5 (AMD); PL 2025, c. 276, §10 (AFF).]

14-B. Mechanical supports.
[PL 2011, c. 186, Pt. A, §29 (RP).]

14-C. Safety devices.
[PL 2011, c. 186, Pt. A, §30 (RP).]

14-D. Reimbursement provided. Notwithstanding any other provision of law, the department shall provide reimbursement within available resources for durable medical equipment that provides a safe sleeping environment for individuals under 16 years of age if:

A. The durable medical equipment is necessary to correct or ameliorate a behavioral health condition; [PL 2009, c. 100, §1 (NEW).]

B. The durable medical equipment is the least restrictive alternative for the treatment of the behavioral health condition; [PL 2009, c. 100, §1 (NEW).]

C. The durable medical equipment is approved on a case-by-case basis by a review team composed of the same representatives as the team conducting children's behavioral treatment reviews under subsection 13, paragraph B, subparagraph (3); and [PL 2009, c. 100, §1 (NEW).]

D. The department determines that the durable medical equipment is cost-effective in comparison to the provision of other covered services or equipment that can sufficiently correct or ameliorate the behavioral health condition. [PL 2009, c. 100, §1 (NEW).]

The department may adopt rules as necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2009, c. 100, §1 (NEW).]

14-E. (TEXT EFFECTIVE 4/01/26) Restraints for adults. An adult with an intellectual disability or autism is entitled to be free from restraint unless the restraint is an emergency short-term step to protect the adult from imminent injury to that adult or others. Each use of restraint must be documented in accordance with the department's reportable event requirements. For the purposes of this subsection, "restraint" does not include blocking or physical redirection. Blocking is a momentary deflection of a person's movement without holding when that movement would be destructive or harmful. Physical redirection is steering a person without holding or coercion.
[PL 2025, c. 276, §6 (NEW); PL 2025, c. 276, §10 (AFF).]

15. Records. All records of persons receiving services must remain confidential as provided in section 1207.

A. The person with an intellectual disability or autism or, if the person is incompetent, a parent or guardian is entitled to have access to the records upon request. [PL 2011, c. 542, Pt. A, §129 (AMD).]

B. The commissioner is entitled to have access to the records of a provider if necessary to carry out the statutory functions of the commissioner's office. [PL 2011, c. 186, Pt. A, §31 (AMD).]
[PL 2011, c. 542, Pt. A, §129 (AMD).]

16. Therapeutic devices or interventions. Therapeutic devices or interventions must be prescriptively designed by a qualified professional and applied with concern for principles of good body alignment and circulation and allowance for change of position. The department may adopt rules concerning the use of therapeutic devices or interventions. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2011, c. 186, Pt. A, §32 (NEW).]

17. Safety devices and practices. A safety device or practice must be prescribed by a physician. A safety device must be designed and applied with concern for principles of good body alignment and circulation and allowance for change of position. The department may adopt rules concerning the use and approval of safety devices or practices. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2011, c. 186, Pt. A, §33 (NEW).]

The department may adopt rules as necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 186, Pt. A, §34 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1987, c. 769, §A129 (AMD). PL 1993, c. 326, §9 (AMD). PL 2001, c. 245, §§1-4 (AMD). PL 2003, c. 368, §§1,2 (AMD). PL 2003, c. 564, §§1-3 (AMD). PL 2007, c. 356, §25 (AMD). PL 2007, c. 356, §31 (AFF). PL 2007, c. 573, §§1-4 (AMD). PL 2007, c. 695, Pt. D, §3 (AFF). PL 2009, c. 100, §1 (AMD). PL 2011, c. 186, Pt. A, §§18-34 (AMD). PL 2011, c. 542, Pt. A, §129 (AMD). PL 2011, c. 657, Pt. EE, §§9, 10 (AMD). PL 2013, c. 310, §7 (AMD). PL 2013, c. 500, §1 (AMD). PL 2021, c. 284, Pt. A, §§10-22 (AMD). PL 2025, c. 276, §§1-6 (AMD). PL 2025, c. 276, §10 (AFF). PL 2025, c. 316, §3 (REV).

§5606. Violations

1. Reportable events. Any alleged violation of the rights of a person receiving services must be reported immediately to the advocacy agency designated pursuant to Title 5, section 19502, referred to in this subsection as "the agency," and to the Attorney General's office.

A. The agency shall investigate each alleged violation pursuant to section 5005-A. [PL 2013, c. 310, §8 (AMD).]

B. The agency may independently pursue a complaint or may pursue administrative, legal and other appropriate remedies on behalf of an individual with intellectual disabilities or autism. The agency may refuse to take action on any alleged violation that it considers to be trivial, to be moot or to lack merit or for which there is clearly another remedy available or may refer an individual who is the subject of an alleged violation to another agency or entity and collaborate with that agency or entity for the purpose of advocating for the rights and dignity of that individual. [PL 2013, c. 310, §8 (AMD).]
[PL 2013, c. 310, §8 (AMD).]

2. Civil liability. Any person who violates or abuses any rights or privileges of persons receiving services granted by this subchapter is liable for damages as determined by law.

A. Civil damages may be awarded for negligent or intentional violations of this subchapter. [PL 1983, c. 459, §7 (NEW).]

B. Good-faith compliance with the provisions of this subchapter in connection with evaluation, admission, habilitation programming, education, treatment or discharge of a person receiving services is a defense to a civil action under this subchapter. [PL 1993, c. 326, §10 (AMD).]

[PL 1993, c. 326, §10 (AMD).]

3. Prohibited acts; penalty; defense. A person is guilty of violation of the rights of a person with an intellectual disability or autism who is receiving services if that person intentionally violates or abuses any rights or privileges of persons receiving services granted by this subchapter.

A. Violation of the rights of a person with an intellectual disability or autism who is receiving services is a Class E crime. [PL 2011, c. 542, Pt. A, §130 (AMD).]

B. Good-faith compliance with the provisions of this subchapter in connection with evaluation, admission, habilitation programming, education, treatment or discharge of a person receiving services is a defense to prosecution under this subchapter. [PL 1993, c. 326, §10 (AMD).]

[PL 2011, c. 542, Pt. A, §130 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 326, §10 (AMD). PL 2005, c. 457, §OO3 (AMD). PL 2005, c. 457, §OO5 (AFF). PL 2005, c. 519, §RR3 (AMD). PL 2005, c. 519, §RR4 (AFF). PL 2007, c. 356, §26 (AMD). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §130 (AMD). PL 2011, c. 657, Pt. EE, §11 (AMD). PL 2013, c. 310, §8 (AMD). PL 2021, c. 284, Pt. A, §3 (AMD).

§5607. Notice of rights

The commissioner shall provide a written copy of this subchapter and of section 1207 to each person receiving services and, if the person receiving services has been adjudged incompetent, to the parent or guardian of the person receiving services. [PL 1993, c. 326, §11 (AMD).]

1. Prompt notification. Each person receiving services must be promptly informed in clear language of that person's legal rights.
[PL 1993, c. 326, §11 (AMD).]

2. Posting requirement. A copy of this subchapter must be posted by each provider.
[PL 2011, c. 186, Pt. A, §35 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1987, c. 769, §A130 (AMD). PL 1993, c. 326, §11 (AMD). PL 2011, c. 186, Pt. A, §35 (AMD). PL 2021, c. 284, Pt. A, §3 (AMD).

§5608. Residential council

Upon request of a person receiving services, a residential provider shall offer an opportunity to a person receiving services from the provider to organize a residential council to hear the views and represent the interests of persons receiving services from the provider. [PL 2011, c. 186, Pt. A, §36 (AMD).]

1. Composition. The residential council of the persons receiving services must be composed of residents elected by other residents. The residential council may include allies elected by the residents.
[PL 2011, c. 186, Pt. A, §36 (AMD).]

2. Duties. The residential council shall work closely with the department and the advocacy agency designated pursuant to Title 5, section 19502 to promote the interests and welfare of all persons receiving services from the provider.
[PL 2011, c. 657, Pt. EE, §12 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1993, c. 326, §12 (AMD). PL 1993, c. 410, §CCC42 (AMD). PL 2011, c. 186, Pt. A, §36 (AMD). PL 2011, c. 657, Pt. EE, §12 (AMD). PL 2021, c. 284, Pt. A, §3 (AMD).

§5609. Habilitation and vocational rehabilitation services

1. Habilitation services. The department and the Department of Labor, through the Office of Rehabilitation Services, shall provide, to the extent of the resources available, for those habilitation and vocational rehabilitation services, defined in Title 26, section 1411-A, subsection 6, and any other service, including, but not limited to, supported employment, including work in rehabilitation facilities and work centers, as defined in Title 5, chapter 155, subchapter 2; job coaching; transportation, recreational and leisure services; and respite or day programs designed in consultation with a planning team in order to make available to persons receiving services those services that are otherwise not obtainable, in the following order of priority:

A. Those persons receiving services who are living at home or in unsubsidized foster care who are between 20 and 26 years of age and are not receiving any day program; and [PL 1993, c. 410, Pt. CCC, §43 (AMD).]

B. All other persons receiving services who are between 20 and 26 years of age and are not receiving an appropriate day program. [PL 1993, c. 410, Pt. CCC, §43 (AMD).]

C. [PL 1993, c. 326, §13 (RP).]

All persons receiving services who are served under this program prior to their 26th birthday must be allowed to continue to receive services through the voucher system established by subsection 2.

For purposes of this section, a planning team includes the person receiving services and a member of the person's family or the guardian of the person receiving services.
[PL 2003, c. 389, §23 (AMD).]

2. Payment for service. The department shall establish a voucher system to allow the planning team to incorporate only those services determined critical and otherwise unavailable into a program, including work, habilitation and other services designated in subsection 1, when appropriate. The department shall establish a limit on the amount of transitional services available to persons receiving services eligible for services under this section.
[PL 2003, c. 389, §24 (AMD).]

3. Rules. The department shall adopt rules in accordance with the Maine Administrative Procedure Act to establish a transitional program under subsections 1 and 2.
[PL 1995, c. 560, Pt. K, §62 (AMD).]

SECTION HISTORY

PL 1987, c. 837, §1 (NEW). PL 1989, c. 328 (AMD). PL 1993, c. 326, §13 (AMD). PL 1993, c. 410, §CCC43 (AMD). PL 1993, c. 708, §A12 (AMD). PL 1995, c. 560, §§K60-62 (AMD). PL 2003, c. 389, §§23,24 (AMD). PL 2021, c. 284, Pt. A, §3 (AMD).

§5610. Service delivery

1. Guiding service delivery. The delivery of services by providers of services and the department to persons with intellectual disabilities, autism or acquired brain injuries is guided by the following.

A. Persons with intellectual disabilities, autism or acquired brain injuries have the same rights as all citizens, including the rights to live, work and participate in the life of the community. [PL 2021, c. 284, Pt. A, §23 (AMD).]

B. Community inclusion is achieved by connecting persons and their families, whenever possible, to local and generic supports within the community and by the use of residential services that are small and integrated into the community. [PL 2007, c. 356, §27 (NEW); PL 2007, c. 356, §31 (AFF).]

C. Real work for real pay for persons in integrated settings in the community is the cornerstone of all vocational and employment services. [PL 2007, c. 356, §27 (NEW); PL 2007, c. 356, §31 (AFF).]

D. Service delivery to persons with intellectual disabilities, autism or acquired brain injuries is based on the following fundamentals:

(1) Maximizing the growth and development of the person and inclusion in the community;

(2) Maximizing the person's control over that person's life;

(3) Supporting the person in that person's own home;

(4) Acknowledging and enhancing the role of the family, as appropriate, as the primary and most natural caregiver; and

(5) Planning for the delivery of community services that:

(a) Promotes a high quality of life;

(b) Is based on ongoing individualized assessment of the strengths, needs and preferences of the person and the strengths of that person's family; and

(c) Identifies and considers connections in other areas of the person's life, including but not limited to family, allies, friends, work, recreation and spirituality. [PL 2021, c. 284, Pt. A, §23 (AMD).]

[PL 2021, c. 284, Pt. A, §23 (AMD).]

SECTION HISTORY

PL 2007, c. 356, §27 (NEW). PL 2007, c. 356, §31 (AFF). PL 2011, c. 542, Pt. A, §131 (AMD). PL 2021, c. 284, Pt. A, §§23 (AMD).

§5611. Complaints

A complaint may be filed by the agency designated pursuant to Title 5, section 19502. The complaint procedure may be used when the agency knows or has reason to believe that the practices, procedures or policies of any agency licensed, funded or contracted by the department to provide services violate the rights of individuals with intellectual disabilities or autism pursuant to section 5605. [PL 2013, c. 310, §9 (NEW).]

1. Allegations of employee misconduct. A complaint that includes allegations of employee misconduct must be processed, but no disciplinary action may be taken nor facts found with regard to the alleged misconduct except in accordance with applicable personnel rules, policies and labor contract provisions.
[PL 2013, c. 310, §9 (NEW).]

2. Complaints arising in community. A complaint arising in the community must be addressed to the executive director of the provider agency.
[PL 2013, c. 310, §9 (NEW).]

3. Response to be provided within 5 business days. A formal written response, including a statement of the remedial action to be taken, if any, must be provided to the complainant within 5 business days of receipt by the person listed in subsection 2.
[PL 2013, c. 310, §9 (NEW).]

4. Decision appealable to director. A decision described in subsection 3 is appealable within 5 business days to the director of the department's office of aging and disability services or the director's designee, who shall provide a formal written response, including a statement of the remedial action to be taken, if any, to the complainant within 5 business days.
[PL 2013, c. 310, §9 (NEW).]

5. Decision appealable to commissioner. A decision of the director or the director's designee pursuant to subsection 4 is appealable within 5 business days to the commissioner, who shall provide a formal written response, including a statement of the remedial action to be taken, if any, to the complainant within 5 business days. This written response constitutes the department's final agency action on the matter.
[PL 2013, c. 310, §9 (NEW).]

SECTION HISTORY

PL 2013, c. 310, §9 (NEW). PL 2021, c. 284, Pt. A, §3 (AMD).

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