



# MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA · DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE  
December 11, 2006

EFFECTIVE DATE  
July 1, 2006

NUMBER  
00-06-14

SUBJECT:  
Office of Mental Retardation Provider Dispute  
Resolution Protocol

BY:

Kevin T. Casey  
Deputy Secretary for Mental Retardation

## SCOPE:

Administrative Entities Administrators/Directors  
Supports Coordination Entities  
Community Home Directors  
Family Living Directors  
Adult Training Facility Directors  
Vocational Facility Directors

## PURPOSE:

This bulletin establishes procedures effective July 1, 2006, for providers to request the Office of Mental Retardation's (OMR's) intervention in disputes with the Administrative Entity related to the provider's participation in the Consolidated or Person/Family Directed Support Waivers.

## BACKGROUND:

OMR is responsible for ensuring that Administrative Entities consistently apply waiver requirements. OMR establishes this protocol to ensure consistent application of policies across the Commonwealth and to create a more timely dispute resolution process.

QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

**The Appropriate Regional Program Manager**

Requests for dispute resolution may be initiated by a provider when:

- The Administrative Entity has determined that the provider does not meet waiver qualification requirements.
- The Administrative Entity has imposed restrictions or suspension upon the provider.
- The Administrative Entity has imposed additional contractual requirements.
- The Administrative Entity has initiated a termination or disqualification action and there are violations of 55 Pa. Code Ch. 4300 that limit the provider's ability to provide waiver services.
- The Administrative Entity has failed to properly apply the standardized rate setting methodology.

The provider shall submit a *"Request for Dispute Resolution"* form to the appropriate regional program office. (See attached) The form has two parts. The first part is submitted by the provider and describes the dispute. The second part is used by the regional office to document research and inquiry, and to notify the provider or the Administrative Entity of its final determination.

The Administrative Entity may submit information regarding the dispute within seven days of receiving a copy of Part 1 of the *"Request for Dispute Resolution"* form.

#### Criteria for Dispute

In order for a dispute to be reviewed by OMR, the *"Request for Dispute Resolution"* form must be complete upon submission and meet at least one of the following criteria:

- The provider was denied waiver qualification.
- The provider has received notification of refusal to contract.
- The provider's participation in the waiver program has been restricted or suspended.
- The provider has been notified of the Administrative Entity's intent to disqualify them from the waiver program.
- The provider was required to comply with additional contractual requirements beyond waiver qualification requirements.
- The Administrative Entity has failed to comply with the provisions of 55 Pa. Code Ch. 4300 that limit ability to provide waiver services.
- The Administrative Entity has failed to properly apply the OMR Rate Setting Methodology as prescribed in MR Bulletin 00-06-06, *Interim Rate Setting*

*Procedures for FY 2006/2007*, or any approved revisions, including the use of the standardized rate setting spreadsheets.

- The Administrative Entity has required the provider to comply with rate setting requirements beyond those prescribed in MR Bulletin 00-06-06, *Interim Rate Setting Procedures for FY 2006/2007*, or any approved revisions, including the standardized rate setting spreadsheets; or in 55 Pa. Code Ch. 4300.

### Regional Review and Determinations

The regional office will review all documentation submitted by the provider and the Administrative Entity. They must review that the Administrative Entity's actions were based on:

- The current approved Waiver
- The Medicaid State Plan
- All pertinent MR Bulletins
- All pertinent Regulations

The Reviewer will contact the Administrative Entity to obtain documentation regarding their actions and may contact the provider to obtain clarification needed as part of the review.

The Reviewer shall submit a summary of their findings and recommendations to the appropriate Regional Program Manager. The summary shall include the following:

- A description of the action that is being disputed.
- A list of materials reviewed.
- A list of parties.
- The findings and recommendations of the Reviewer.
- The policies and regulations that form the basis of the recommendations.

### OMR Review and Concurrence

The Reviewer will submit a proposed decision to the Regional Program Manager within 20 days of receipt of Part 1. The regional determinations are subject to concurrence by the Area Directors.

OMR Area Directors will then review the decision for consistency with similar disputes from other Regions. In instances where the Area Directors do not concur with the regional determination, they will return the response to the Regional Reviewer with

comments for revision. The Reviewer will revise the response and resubmit the determination to the Area Directors for concurrence.

The Regional determination will be mailed to the provider and the Administrative Entity within 30 days of receipt of Part 1.

### Implementation of the Regional Office Decision

OMR is responsible for ensuring that decisions are implemented in a timely manner as described in this bulletin. The Administrative Entity is responsible for implementing the Departmental findings resulting from provider dispute reviews, and all Bureau of Hearings and Appeals decisions. For all findings and/or decisions requiring the provision of a service, such service shall be provided within thirty (30) calendar days of the finding/decision, or in situations requiring additional Departmental funding, with thirty (30) calendar days of receipt of formal notification from the Department, or its representative(s), of the assurance of additional funding. The Reviewer will instruct the Administrative Entity of the required action(s), with specific time frames if applicable. The Administrative Entity will notify the regional office of the status of the decision implementation. If the Administrative Entity experiences delays in implementing the required action(s), a written request for an extension will be submitted to the regional office.

### Enforcement Mechanisms

If the Administrative Entity fails to implement the decision from OMR, the regional office will notify the Administrative Entity Administrator in writing, that the decision has not been implemented as directed. The Administrative Entity must provide documentation of good faith efforts to implement the decision, including documentation detailing barriers to successful implementation. If there is continued failure to implement the decision, the regional office will notify the County Commissioners/Administrative Entity Governing Board of the program's failure to implement the decision and require an immediate plan from the County Commissioners/Administrative Entity Governing Board to comply. Further failure to implement the service will result in the imposition of appropriate sanctions.

### Mechanism to Track Disputes, Findings, and Outcomes

OMR will track reasons for disputed action(s) and analyze findings to determine patterns or trends that may have policy or training implications. OMR will review these procedures and revise them as needed. Additionally, OMR will provide the Administrative Entity with a summary of findings and recommendations.

### Appeal of OMR Determinations

Administrative Entities may not appeal the OMR Provider Dispute findings and determinations.

Providers may request an appeal of the OMR Provider Dispute findings through a written request to the Department of Public Welfare Bureau of Hearings and Appeals (BHA), with a copy to the Regional and Central Offices of Mental Retardation. Written requests for appeal must be submitted within thirty (30) calendar days of receipt of the OMR Provider Dispute findings.

Obsolete Bulletin

MR Bulletin 00-06-02 entitled, *Office of Mental Retardation Provider Dispute Resolution Protocol for Individuals in the Consolidated Waiver*.

Attachment

***PROVIDER REQUEST FOR DISPUTE RESOLUTION***

**Part 1**

This notification is to request resolution of a dispute between a provider and the Administrative Entity related to services within the Consolidated or Person/Family Directed Support Waivers.

**To (check appropriate Office of Mental Retardation regional office)**

Central Region Office of Mental Retardation, Willow Oak Building, Room 430, Harrisburg, Pennsylvania 17105. [pmccool@state.pa.us](mailto:pmccool@state.pa.us) or (717) 772-6507

Northeast Region Office of Mental Retardation, 100 Lackawanna Avenue, Scranton, Pennsylvania 18503. [jwnorowski@state.pa.us](mailto:jwnorowski@state.pa.us) or (570) 963-4749

Southeast Region Office of Mental Retardation, 1400 Spring Garden Street, Room 306, Philadelphia, Pennsylvania 19130. [vstillmant@state.pa.us](mailto:vstillmant@state.pa.us) or (215) 560-2245

Western Region Office of Mental Retardation, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222. [cschalcosk@state.pa.us](mailto:cschalcosk@state.pa.us) or (412) 565-5144

<b>Administrative Entity Administrator or designee:</b>	
<b>Address:</b>	<b>Telephone:</b>
<b>Date submitted to regional office: (mm/dd/yyyy)</b>	

**Administrative Entity:** *(the provider is responsible for submitting this request for dispute resolution form to the regional office selected above, to the Administrative Entity at the same time).*

If an Administrative Entity's request is in response to the provider's request for dispute resolution, please include the following additional information:

**Select all that apply:**




**The provider has been determined not to be qualified as a waiver provider in accordance with the Office of Mental Retardation's Provider Qualification requirements (see the approved Consolidated or Person/Family Directed**

**Support Waivers).** *(Attach documentation/notification of denial and a description of requested qualifications)*

- The qualified provider has received notification of refusal to contract.** *(List the services that the provider was seeking to provide; attach notification/documentation of denial; describe the reason for denial).*
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- The qualified provider has received notification of restrictions/suspension, including:** *Attach notification/documentation of the Administrative Entity's action(s).*
  - **Freezing capacity or enrollment.**
  - **Geographic limitations (distance).**
  - **Cost effectiveness.**
  - **Financial Viability**
- The provider has received notice of intent to disqualify them from the waiver program.** *(Attach notice)*
- The qualified provider is required to comply with additional contractual requirements beyond waiver qualification requirements.** *(Attach notification/documentation of county action).*
- The Administrative Entity has failed to comply with the provisions of 55 Pa. Code Ch. 4300 that limit the provider's ability to provide waiver services.** *(Attach documentation including specific citations of the 4300 regulations, and explain how the Administrative Entity failed to comply).*
- The Administrative Entity has failed to properly apply the OMR Rate Setting Methodology as prescribed in MR Bulletin 00-06-06, *Interim Rate Setting Procedures for FY 2006/2007*, or any approved revisions, including the standardized rate setting spreadsheets.** *(Attach documentation which demonstrates improper application of the methodology).*
- The Administrative Entity has required the provider to comply with rate setting requirements beyond those prescribed in MR Bulletin 00-06-06, *Interim Rate Setting Procedures for FY 2006/2007*, or any approved revisions, including the standardized rate setting spreadsheets; or in 55 Pa. Code Ch. 4300.** *(Attach documentation demonstrating the additional requirements which are being imposed by the Administrative Entity).*

**Providers must submit the following documentation with this dispute resolution request:**

-  Date dispute initiated
-  Description of reason for disputing the Administrative Entity's action(s)
-  Documentation/notification of Administrative Entity's action(s)

**Part 2**  
*[For OMR use only]*

**DISPUTE RESOLUTION REVIEW**

<b>Tracking #</b>	
<b>Regional Reviewer:</b>	
<b>Regional Reviewer Title:</b>	
<b>Telephone:</b>	
<b>Date Received from Provider:</b>	

**Based on the information received, the regional office:**

- Validates that the request meets one or more of the criteria for dispute<sup>1</sup>, and**
- Agrees with Administrative Entity's Action(s)** *(If Reviewer agrees with the Administrative Entity's action(s), the appropriate box is checked, a written explanation, including the evidence relied on is completed and forwarded to the appropriate Director within 12 days following receipt of the dispute).*
- Disagrees with Administrative Entity's Action(s)** *(If Reviewer disagrees with the Administrative Entity's action(s), the appropriate box is checked, a written explanation, including the evidence relied on is completed, and the appropriate direction is chosen (See below). The form is then forwarded to the appropriate Director within 12 days following receipt of the dispute).*

**Summary of dispute, evidence, determination and basis for determination**

**Regional Office instructs Administrative Entity to (Indicate all that apply):**

- No action required. The regional office concurs with the action taken by the Administrative Entity.**

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<sup>1</sup>If the request for dispute resolution is not complete and/or valid, the form is forwarded back to the Provider for either re-submission within 3 days or withdrawal by the provider.

- The Administrative Entity shall ensure the provider’s inclusion as a qualified waiver provider.**
- The Administrative Entity shall lift current restrictions or suspension of the provider.**
- The Administrative Entity failed to comply with 42 CFR 431.54 related to action resulting in suspension or termination. Specifically:**
  - Failure to document findings.**
  - Failure to notify the provider of findings.**
  - Failure to provide an opportunity for corrective action.**
  - Failure to provide proper advance notice of intent to suspend or terminate.**
- The Administrative Entity may not impose additional contractual requirements for provider participation in the waiver.**
- The Administrative Entity violated the 55 Pa. Code Ch. 4300.**
- Concurrence by OMR:** *(If Director agrees with the decision, the form is returned to the reviewer for notification to the provider and the Administrative Entity. If Director reviews dispute and disagrees with the decision, the form is forwarded back to the OMR Regional Office with direction for revision within 3 days).*
- Pam Kuhno**  
**Eastern Area Director, Bureau of Program Operations**  
**Date:**
- Nancy Murray**  
**Western Area Director, Bureau of Program Operations**  
**Date:**

<b>Reviewer signature:</b>	
<b>Date Finalized:</b>	
<b>Date mailed to Provider &amp; Administrative Entity<sup>2</sup></b>	

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<sup>2</sup> Copies of all determinations are to be sent to all regional offices, Area Directors, and OMR Central Office Bureau Directors for distribution to appropriate staff.