

Rensselaer County Chapter NYSARC Inc. Objection to Services Policy and Procedures

Policy:

It the policy of Rensselaer County Chapter NYSARC Inc (ARC) that all individuals receiving an ARC service or support, and/or their parents, guardians, and correspondents will be informed of their rights to object to and appeal any plan (or change) of service, care or support with which they disagree. They will be informed of this right to object to services (or change of services) upon the initiation of the support or service. This ARC policy is a safeguard designed to ensure that an individual receiving a service has an ability to exercise choice regarding the type and nature of their supports. This policy is also in compliance with OMRDD Part 633, section 633.12, Objections to Service Process and reductions, suspension, or discontinuance of HCBS waiver services.

In most cases, when there is an objection to program, resolution can be reached on an informal basis with the objecting party, their service coordinator (and advocate or correspondent as applicable), the relevant staff, a program coordinator, and/or a program director. If necessary the Chief Operating Officer and/or Chief Executive Officer may be introduced to the process to work through an acceptable agreement with all involved parties. The results of the process will be documented in the person's record.

If resolution is not reached in an informal process, a formal process of review will be initiated by the ARC that involves the DDSO director.

Overall Guidelines

- A. Objections related to any service or support provided by the ARC may be initiated regarding:
- Any plan of services (including an individualized service plan)
 - Plans for placement
 - A proposal initiated by the agency to discharge a person from services or a program
 - A proposal to reduce, suspend or discontinue HCBS wavier services.

Objections to major medical treatment or to the administration of psychotropic medication(s) to control or modify affect or behavior, for which informed consent is necessary is covered in the ARC policy on informed consent.

- B. The following parties may initiate an objection: adult persons receiving services, guardians, correspondents, and advocates of persons receiving services, and the Mental Hygiene Legal Service.

- C. The person receiving services, guardians, correspondents, and advocates of persons receiving services will be advised of the mechanism to resolve an objection, upon admission to a program or enrollment in an HCBS waiver service.
- D. When the ARC proposes to reduce, suspend, or discontinue an HCBS waiver service, the relevant ARC staff person, utilizing the OMRDD approved form and format advise the person, and his/her advocate and service coordinator of the proposed changes and the mechanism for resolving an objection to the proposed changes. (see attached forms 1 and 2. Note: if the change(s) is to be discussed for the first time at an annual or semiannual review, notice (form1) must be sent to the person, advocate/correspondent, and Service Coordinator prior to the meeting date.
- E. A capable adult person receiving services may refuse the initiation of an objection or subsequent appeal on his or her behalf.
- F. A person, and his or her parent, guardian, correspondent and advocates, as applicable may select a representative of his or her choice to provide assistance and/or representation, including legal counsel.
- G . During the period that an objection is undergoing administrative review:
 - A person shall participate in programming mutually agreeable to the objecting party, the ARC, the person, and his/her parent, guardian, correspondent or advocate.
 - Every effort feasible shall be made to maintain the person in at least his/her current level of programming or support
 - In order to protect a person's health, safety, or welfare or the health, safety, or welfare of others, nothing herein shall preclude a change in programming for, or the relocation or discharge of a person. However, while an objection to placement or discharge is undergoing administrative review, relocation or discharge shall only take place with the Commissioner's approval.
- H. A person shall be given the opportunity to participate in activities related to the objection process.

Informal Process to Resolve an Objection to Service

1. If a dispute, objection to service plan or change in services arises, the first option for resolution is with the staff who are responsible to support the person.
2. If a resolution can not be reached, the consumer and/ or their representatives with their service coordinator may meet a program coordinator and /or program director to work with a mutually satisfying agreement. If agreement is not reached, the internal hierarchy may be followed:

- Program Director
- Chief Operating Officer
- Chief Executive Officer
- Board of Directors

All steps in this process must take place in a timely fashion to minimize disruption of the person's supports or services.

Formal Process to Resolve an Objection to Service

1. For routine objections to service:
 - a. the objecting parties will be given the opportunity to submit a formal written objection requesting a hearing to the DDSO director. An ARC staff person will be available to assist in this process if necessary.
 - b. within five days of the receipt of the formal written objection, a hearing will be scheduled (with no less than 10 days notice) to take place before a hearing officer appointed by the DDSO director.
 - c. a written decision by the hearing officer shall be sent to the involved parties with 14 days of the hearing.
 - d. If any party in the proceeding is not satisfied with the decision, it may be appealed within 10 days to the Commissioner, who will issue a final written decision to all parties within 14 days of receipt of the appeal. The Commissioner may, at his/her discretion, send the matter back to the hearing officer for further review.
2. For objections related to the reduction, suspension, or discontinuance of HCBS waiver services:
 - a. Written notice of the parties' inability to resolve the objection shall be sent to the objecting party by the Chief Executive Officer. Such notice shall be sent in the form and format approved by OMRDD, and shall be sent by certified mail, return receipt requested, or such other means so that the time of receipt can be documented.
 - b. The objecting party may submit a written objection to the DDSO director requesting an administrative review of the reduction, suspension, or discontinuance, within 14 days after the receipt of the notice. (the ARC will not reduce, suspend, or discontinue the HCBS waiver service during this 14 day period, unless other wise agreed to by the parties).
 - c. Upon receipt of a written objection requesting an administrative review, the DDSO director or designee shall contact the objecting party and the ARC to mediate resolution of the objection.

- d. If there is no resolution within 14 days of receipt of the objection, a hearing is scheduled, with no less than 10 days notice to the involved parties.
- e. A hearing officer shall issue a written decision to the objecting party and the ARC within 14 days after the conclusion of the hearing.
- f. Either party may appeal the decision to the Commissioner by submitting a written reply to the decision within 14 days of its receipt.
- g. The Commissioner will issue a final written decision to all parties within 14 days of the last date to a appeal. The Commissioner may send the matter back to the hearing officer for further review.
- h. The ARC or the objecting party may request an expedited hearing in situations of health and safety by contacting the Commissioner.