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To: All Home and Community Based Medicaid Waiver and State General Fund Agencies

From: Jennifer Rodriguez, Director
Developmental Disabilities Supports Division

Subject: Firearms in the Service Environment

It has come to the attention of the Developmental Disabilities Supports Division (DDSD) that some employees and/or contractors of Home and Community Based Medicaid Waiver and State General Fund (SGF) agencies carry loaded firearms, both openly and concealed, while performing their job duties. Provider agency employees' and contractors' rights to own or carry a weapon (including a firearm) do not extend to their professional duties because it violates the rules and regulations governing the programs administered by the Developmental Disabilities Supports Division (DDSD).

Home and Community Based Medicaid Waiver requirements prioritize the health and safety of individuals with intellectual and developmental disabilities. DDSD has established service standards to guide service delivery and promote the health and safety of people supported by DDSD contracted provider agencies. The Medicaid Waiver Service Standards contain protections of the rights and freedoms of all waiver participants. The people receiving Medicaid Waiver services enjoy due process rights and protections for their freedom to make decisions and choices that may expose them to a level of risk. Agency providers must support those freedoms as part of your duty of care. However, the Medicaid Waiver Service Standards also expressly states that it is the responsibility of the provider agency to assure that individuals receive services in a safe environment.

Waiver and SGF employees' and contractors' rights while providing care within a service environment are limited by their contracts entered into with DDSD. Per the agency Provider Agreement with DDSD, all agencies agree to adhere to all DDSD regulations, policies or standards, including the Home and Community Based Medicaid Waiver and SGF Service Standards issued by DDSD.

Generally, employees or contractors carrying weapons while at work is not conducive to a safe living environment for vulnerable individuals with intellectual and developmental disabilities. In fact, DDSD considers the risks introduced by loaded firearms or other weapons in the service environment health and safety concerns of a severe nature. The potential consequences of carrying a loaded firearm or other weapon while performing job duties introduce unreasonable risks to the service environment. An individual receiving services could potentially gain access to the loaded firearm, harm themselves or others; or an employee or contractor of the agency

could harm an individual receiving services by accidentally discharging the loaded firearm in an emergency.

DD Waiver Service Standards provides additional limitations that would prohibit employees and contractors of provider agencies from introducing loaded firearms or other weapons into the service environment. Human Rights Committees (HRC) exist to protect the rights and freedoms of all waiver participants. For example, HRC is expressly prohibited from approving the use of police presence/law enforcement as a primary strategy of behavioral support, excluding the use of emergency services and law enforcement (as appropriate) to enforce laws or provide needed emergency medical support. Additionally, the use of manual application of any physical restraint, except in emergent situations involving imminent risk of harm to self or others (defined as Emergency Physical Restraint) is also expressly prohibited by HRC. Employees or contractors carrying firearms while providing services under the agency's agreement with DDS, would violate both these limitations on police presence and restraint.

It is the provider agency's responsibility to adhere to the signed Provider Agreement, applicable Home and Community Based Medicaid Waiver and SGF Service Standards, and all rules and regulations that govern the delivery of services and programs administered by DDS.

Paramount is the delivery of services in a safe environment, at all service locations. Employees and/or contractors carrying loaded firearms or other weapons during service delivery or introducing them into the service environment, whether concealed or not, is not conducive to a safe environment and a clear violation of DDS standards.

Any and all agencies who employee and/or contract with employees who carry loaded firearms or other weapons, both openly and concealed, while performing their job duties, must cease this practice effective immediately and confirm that its employees and contractors have ceased this practice permanently. Any violation of the rules may result in contract management actions, up to and including termination of the agency's provider agreement.