

 <p style="text-align: center;">POLICIES AND PROCEDURES</p> <p style="text-align: center;">State of Tennessee Department of Intellectual and Developmental Disabilities</p>	Policy #: 80.3.8	Page 1 of 3
	Effective Date: June 5, 2015	
	Distribution: B	
Policy Type: Community/Waiver	Supersedes: 80.3.8 (08/10/12)	
Approved by:  Debra K. Payne, Commissioner	Last Review or Revision: March 12, 2015	
Subject: TERMINATION OF PARTICIPANT DIRECTION OF WAIVER SERVICES		

- I. **AUTHORITY:** Tennessee Code Annotated (TCA) Section 4-3-2708, TCA 33-1-302(A), TCA 33-1-303(3), TCA 33-1-305, TCA 33-3-101 and Medicaid HCBS Self-Determination Waiver.
- II. **PURPOSE:** The purpose of this policy is to provide clarification about the process for termination of participant direction of services by persons supported enrolled in the Self Determination Waiver Program.
- III. **APPLICABILITY:** This policy applies to the case management and other staff of the Department of Intellectual and Developmental Disabilities (DIDD).
- IV. **DEFINITIONS:**
 - A. **Home and Community Based Services (HCBS) Waiver or Waiver** shall mean a waiver approved for Tennessee by the Centers for Medicare and Medicaid Services to provide services to a specified number of Medicaid eligible individuals who have an intellectual disability and who meet Medicaid criteria for reimbursement in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID). The HCBS waivers for people with intellectual disabilities in Tennessee are operated by the Department of Intellectual Disabilities with oversight from TennCare, the state Medicaid agency.
 - B. **Participant Direction of Waiver Services** shall mean the process whereby a person supported directs the provision of a service that is specified in the Self Determination Waiver Program as one which is available to be participant directed by the person supported in accordance with waiver requirements.
- V. **POLICY:** This policy describes the actions to be taken in situations where the person supported and family/legal representative are unwilling or unable to successfully self-direct waiver services.

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VI. PROCEDURES:

A. Services which may be Participant Directed

Services which may be participant directed include the following:

1. Personal Assistance.
2. Day Services (except facility-based Day Services).
3. Respite Services (when provided by an approved Respite Services provider who serves only 1 person supported).
4. Individual Transportation Services.

B. Voluntary Discontinuation of Participant Direction of Waiver Services

A person supported or the family/legal representative may voluntarily discontinue participant direction of waiver services at any time. This is accomplished by notifying the Case Manager and choosing alternative providers of services.

C. Reasons for Involuntary Termination of Participant Direction of Waiver Services

Participant direction of waiver services may be involuntarily terminated for the following reasons:

1. Failure of the person supported or family/legal representative to comply with the requirements of participant direct services in accordance with waiver requirements.
2. Failure to maintain and allow access to records to DIDD and or the Financial Administration/Supports Brokerage entity.
3. Failure to provide documentation to the Financial Administration/Supports Brokerage entity regarding services provided.
4. Evidence of abuse, neglect and exploitation reflecting a change in needs that precludes participant direction.
5. Evidence of fraud.

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6. If continuation of participant direction of services would result in the inability of DIDD to ensure the health and safety of the person supported.

D. Involuntary Termination of Participant Direction of Waiver Services

1. When there is an allegation or evidence that there has been a failure to implement participant directed services in accordance with waiver requirements, the DIDD Regional Director or designee shall review the circumstances of the situation to determine the cause of such failure.
2. If the failure to implement participant directed services in accordance with waiver requirements appears to be due to lack of training about or a misunderstanding of the requirements, the DIDD Regional Director or designee shall send the person supported or family/legal representative written notification of the need for compliance with waiver requirements.
3. The Regional Director shall notify the Financial Administration/Supports Brokerage entity to provide the person supported or the family/legal representative with additional training in the appropriate implementation of participant direction of services.
4. If the failures to implement the service are substantiated and are not remedied, the Regional Director shall submit a request for involuntary termination of participant direction to the DIDD Director of Person Centered Practices.
5. Upon receipt of a request for involuntary termination of participant direction of waiver services, the Director of Person Centered Practices shall review the request and shall approve or deny the request.
6. If the request for involuntary termination of participant direction is denied, the DIDD Director of Person Centered Practices shall send written notice of the decision to:
 - a. The DIDD Regional Director.
 - b. The DIDD Case Manager.
7. If the request for involuntary termination of participant direction is approved, the DIDD Director of Person Centered Practices shall send written notice of the decision to:
 - a. The person supported and if applicable family/legal representative.
 - b. The DIDD Case Manager.

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- c. The DIDD Regional Director.
- d. The Financial Administration/Supports Brokerage entity.

8. The notice of involuntary termination of participant direction shall contain information about the participant's right to appeal the involuntary termination.

E. Transition to Provider Managed Waiver Services

When termination of participant direction of waiver services has been authorized by the DIDD Director of Person Centered Practices, the DIDD Case Manager shall ensure continuity of services by:

- 1. Assisting the person supported in identifying an appropriate service provider from available qualified providers, and
- 2. Amending the Individual Support Plan to add the new service provider, and
- 3. Documenting that service will be provided through the provider managed method of service delivery.

Amendments to the ISP shall be handled in accordance with the timelines and guidelines in policy 80.3.4 Authorization of Services.

F. Person Supported Right to Receive Waiver Services

Termination of participant direction of waiver services shall not affect the person supported right to receive covered services through the provider managed method of service delivery.

VII. **CQL STANDARDS:** 1a, 1b

VIII. **REVISION HISTORY:** July 30, 2012; March 12, 2015

IX. **TENNCARE APPROVAL:** March 12, 2015

X. **ATTACHMENTS:** None