

APPENDIX A

SUPPLEMENTAL GRANT CONDITIONS

The following preconditions govern the allocation and expenditure of supplemental grant funds for the provision of community mental retardation services by the county pursuant to the Department's Person/Family Directed Support Waiver, HCFA # 0354, approved by the Department of Health and Human Services under Section 1915(c) of the Social Security Act.

SCOPE

1. a. All services must be provided in compliance with the Department's approved waiver application, as transmitted by the Department, for persons with mental retardation, HCFA #0354 and subsequently approved waiver amendments and corrective action plans.
- b. The term of the agreement shall be from January 1, 2000 through June 30, 2002, subject to continuing federal approval of the waiver and availability of appropriated funds.
- c. Any changes which result from changes in federal or state law, regulation, or conditions of waiver approval shall be binding on the parties and will be issued to the county program as revisions to the Supplemental Grant Conditions. (Appendix A), pursuant to notice to the county by the Department of such change.
- d. At any time during the state fiscal year, either party to the supplemental grant agreement may initiate discussions regarding modifications to Appendix A. The currently existing agreement shall remain in effect until superseded by agreed upon modifications.
2. a. The county shall provide services for the allocated number of persons identified in the county's annual allocation letter, or as stipulated by a revision to the annual allocation letter by the Department.
- b. The Department reserves the right to adjust the county's allocation for waiver services should the county not be able to provide services for the number of persons identified in the county's allocation letter.

3. a. The county, as the Department's fiscal agent, is required to provide administrative services for the proper and efficient operation of services and support provided under this agreement.
- b. For purposes of this agreement, the term "county" refers to the County MH/MR Program, or its designee or payment agent, that is purchased under contract or agreement with the County MH/MR Program to carry out county administrative responsibilities under this agreement. When the county assigns administrative functions to an agent or designee, the county continues to retain full responsibility for compliance with Appendix A of this agreement.
- c. The following administrative responsibilities shall be retained by the County MH/MR Program as a condition of federal and state funding participation under the waiver, and shall not be purchased outside of the County MH/MR Program by a designee or an agent:
 1. Signing of the county's agreement with the Department for administration of waiver services;
 2. Monitoring of assigned county fiscal and program administrative services pursuant to a signed contract;
 3. Provider enrollment and certification;
 4. Submission of all waiver cost and utilization reports to the Department, including cost and utilization related to HCFA 372 submissions;
 5. Authorization for waiver funded services, rates and charges;
 6. Signing and monitoring of all provider contracts;
 7. Compliance with the Single Audit Act;
 8. Control for allocated funds.
- d. The county can purchase administrative services outside the MH/MR Program to assist the county in carrying out any of the responsibilities listed in 3c as long as the County MH/MR Program retains final responsibility for the completion of each activity or function.

ELIGIBILITY FOR SERVICES

1. The county shall ensure that persons are eligible for an ICF/MR level of care in accordance with criteria and procedures established by the Department which are currently set forth in MR Bulletin 00-99-14, titled: Individual Eligibility for Medicaid Waiver Services.
2. The county shall ensure that persons meeting the following criteria are excluded from participation in this waiver:
 - a. Persons from birth to their third birthday.
 - b. Persons residing in a community or family living home licensed under 55 Pa. Code Chapter 6400 or 55 Pa. Code Chapter 6500.
 - c. Persons whose cost of waiver funded services exceed \$20,000 per fiscal year.
3. The county shall cooperate with the County Assistance Office in determining a person's initial and continuing eligibility for waiver services in accordance with Department procedures which are currently established in MR Bulletin 00-99-14.

SERVICES

1. Only specific services, as defined in the Department's approved waiver application issued under MR Bulletin 00-99-11 titled: Person/Family Directed Support Waiver, and any approved waiver application amendments, are eligible for Federal financial participation under the waiver.
2. To the extent that funds are allocated to the county by the Department, the county shall make the following waiver services, herein referred to as "waiver eligible services", available for the number of waiver eligible individuals specified in the county's allocation letter who need them:
 - a. Homemaker/Chore;
 - b. Respite care;

- c. Habilitation services consisting of residential habilitation day habilitation, prevocational services and supported employment;
 - d. Environmental accessibility adaptations.
 - e. Transportation.
 - f. Extended State plan services consisting of physical therapy services, occupational therapy services, and speech, hearing and language services.
 - g. Other services consisting of visual/mobility therapy, behavioral therapy, and visiting nurse.
 - h. Adaptive applianceS and equipment.
 - i. Personal support.
3. The following services and provisions, herein referred to as “waiver ineligible services” are excluded from Federal Financial Participation (FFP) under the approved waiver, and shall be made available by the county to the extent that funds are allocated to the county by the Department or available to the individual through other means, e.g., Medical Assistance or other third party payors:
- a. Room and board.
 - b. Home furnishings.
 - c. Personal clothing.
 - d. Prevocational, supported employment and education services which are available under a program funded under the Rehabilitation Act of 1973 as amended or the Individuals With Disabilities Education Act (IDEA).
 - e. Prevocational services where the individual’s compensation rate exceeds 50% of the minimum wage.
 - f. Career orientated continuing education, and trade school.
 - g. Services which are provided under the state’s Medical Assistance Program, including services provided under EPSDT.

- h. Residential habilitation services in a personal care home or domiciliary care home where more than 10 individuals reside.
4. All services must be provided as part of the county program pursuant to the Mental Health and Mental Retardation Act of 1966 and in compliance with the Department's regulations, policy and procedures for community mental retardation programs, services and facilities.
5. The Department shall hold the county harmless from any federal and state audit exception which may result from policy directives and bulletins issued by the Department which are not in compliance with the provisions of the approved waiver application.
6. To be eligible for federal and state financial participation, all agency operated service settings, domiciliary care homes, and licensed personal care homes, shall be dispersed within the community to foster each person's social integration with the general population. This standard shall not apply to the location of the home of the person or family.
7. The county is responsible to ensure that waiver eligible services authorized by the county do not duplicate services which are provided under the state Medical Assistance plan. However, services which are similar to those provided under the state plan are allowable under the waiver when they differ in definition, amount, duration or scope from those provided in the state plan.
8. The county shall ensure that supported employment and vocational services are coordinated with the local District Office of Vocational Rehabilitation (OVR), in accordance with Department policy, which is currently set forth in MR Bulletin 00-95-23, titled: Coordination of Vocational Training and Supported Employment Under the 2176 Waiver.
9. The county shall only claim FFP under the waiver for supported employment and vocational services when the local District OVR has documented that OVR funding for these services is not available.

SERVICE MANAGEMENT

1. The county is responsible to ensure that a service manager funded under Medical Assistance Targeted Service Management (TSM) is available for each person/family receiving services under this waiver in accordance with the county's current signed TSM agreement with the Department.

2. The county shall ensure that TSM fulfills the following responsibilities for individuals receiving waiver funded services:
 - a. Locate, coordinate and monitor waiver and other services and support in the Person/Family Directed Support (P/FDS) plan.
 - b. Advocate on behalf of the person/family.
 - c. Ensure service management does not duplicate waiver funded personal support services.
 - d. Ensure the P/FDS plan is prepared.
 - e. Ensure timely reevaluations of level of care.

3. The county is responsible to ensure that TSM monitoring is conducted at a frequency and duration necessary to ensure services and support are provided in accordance with the P/FDS plan and to ensure the person's health & safety. For purposes of this provision, a family member means a relative by birth or marriage who lives with the person and takes responsibility for the person's health and well-being.
 - a. The minimum TSM monitoring frequency shall be as follows:
 - (1) For persons living with a family member, the service manager shall contact the person/family at least once every three months. During an annual period, at least two of these contacts must be face to face meetings with the person receiving services. The interval of face to face contacts shall be at least once in every six months of service.
 - (2) For all other persons, the service manager shall contact the person or family at least once a month. During an annual period, at least four of these contacts must be face to face meetings. The interval of face to face contact shall be at least once in every three months.
 - (3) For persons who are not living with a family member and who are determined by the county to not require service management contact on a monthly basis due to the availability of other supports, service managers must contact the person at least once every three months. During an annual period, at least two of these contacts must be face to face meetings. The interval of face to face contacts shall be at least once in every six months of service.

The availability of other supports shall be documented in the P/FDS plan.

3. The county is responsible to ensure that persons/families have the choice of service manager. Persons/families have the choice to retain their current service manager and the choice to change their service manager to another available service manager. Availability shall be determined by the service management agency assigned by the county.

PERSON/FAMILY DIRECTED SUPPORT PLAN DEVELOPMENT

1. The county is responsible to ensure that the P/FDS plan is prepared and approved and shall authorize services based on the P/FDS plan.
2. The P/FDS plan shall be based on a written assessment or other documentation which supports the person's need for each waiver eligible service, and other service(s) included in the plan.
3. Beginning with all P/FDS plans approved in fiscal year 2000/2001, the county is responsible to ensure that the P/FDS planning process comports with person centered planning approaches that include:
 - a. Utilization of voluntary support of family and friends, along with community resources to the fullest extent possible.
 - b. Service outcomes that are directed to assure that each person is able to live where they want, with whom they want, with the home and community supports the person and family need.
 - c. Service and support planning methods which maximize person/family autonomy, control, choice and responsibility.
4. The county shall ensure that the P/FDS plan includes:
 - a. All waiver and non-waiver funded home and community services and support the person receives.
 - b. The type of service to be furnished; the amount, frequency, and duration of each service; and the provider who furnishes each service.

- c. Safeguards necessary to assure the person's health and safety in the home and community including the person(s) responsible for the person's health care, protection from exploitation and abuse, and food/shelter.
5. The county shall ensure the authorization of waiver eligible services in the P/FDS plan is updated to reflect significant changes in waiver-funded services and support. A significant change in the plan shall include, but is not limited to change in the provider of a habilitation service, the addition or deletion of a waiver eligible service, and the increase or decrease in the frequency and/or duration of services. Minor shortfalls and variances in service delivery which routinely occur due to hospitalization or other reasons for non-utilization shall not be considered a significant change in services.
6. The county shall ensure that:
 - a. A copy of the P/FDS plan is maintained at the County MH/MR Program and at the TSM agency for a period of three years.
 - b. The P/FDS plan is reviewed and updated at least annually to determine the appropriateness and adequacy of services in view of the person's needs.
 - c. A service manager or qualified mental retardation professional provides oversight of providers of unlicensed waiver funded services to verify that services and support are being provided in accordance with the P/FDS plan.
7. The county shall provide persons/families such information they may request to participate in service planning and implementation, including the Department's approved waiver application, ICF/MR and community service regulations and policy, and information related to service and support options.

SERVICE PREFERENCE

1. The county shall ensure that persons with mental retardation who are likely to require an ICF/MR level of care, or their legal representative, are informed of any feasible alternatives under the waiver and given the choice, herein referred to as service preference, of either ICF/MR or home and community based services in accordance with Department policy, which is currently set forth in MR Bulletin 99-85-02; titled: Beneficiary Choice under 2176 Waiver Program.
2.
 - a. The county shall provide an opportunity for fair hearing to individuals who are not given the opportunity to express a service preference for either waiver-funded services or ICF/MR; who are denied their service

preference of waiver funded services or ICF/MR; who are denied the waiver funded service(s) of their choice; who are denied a qualified waiver service provider of their choice; and who are dissatisfied with a decision to refuse, suspend, reduce or terminate a waiver-funded service.

- b. Fair hearing and appeal procedures shall be in accordance with Department policy, which is currently set forth in MR Bulletin 99-87-08; titled: Revised Fair Hearing Procedures Related to Services Under 2176 Waiver Program.

ADMINISTRATIVE REVIEWS

1. Beginning in fiscal year 2000/2001, the County shall complete at least one annual administrative review in accordance with a review process, protocol and sampling approved by the Regional Office of Mental Retardation. The annual administrative review shall demonstrate whether the county is in compliance with state assurances and Appendix A of this agreement.
2. This administrative review shall include visits at settings where services are provided, a review of program records, a review of the service management monitoring, a review of person/family satisfaction with services, and a written report containing finds and recommendations.
3. The county shall retain records of its administrative review for a minimum of three years noting the date(s) of the review, the number of persons included in the review, the scope of the services covered in the review, corrective action(s) for each finding of non-compliance with conditions of this supplemental grant agreement, and actions intended for purposes of quality improvement.
4. The county shall provide the Regional Office of Mental Retardation with a copy of its administrative review report, plan of correction and updates on compliance and quality improvement on request.

FINANCIAL ADMINISTRATION

1. a. The county shall authorize payments at ~~on~~ rates or charges for services established in the P/FDS plan in accordance with 55 Pa. Code Chapter 4300, titles: Fiscal Manual for the County MH/MR Program.
- b. Service authorization, which can be the form MH/MR 11, must identify the service being authorized and the effective time period for the authorization for each waiver eligible service. Individual service rates or charges do not need to be specified as part of the service authorization if a

unit charge or payment schedule has been established in a separate provider contract or agreement.

2. The Department shall participate in an allowance for service providers to retain revenue in excess of eligible expenses realized under the contract in accordance with 55 Pa. Code Chapter 4300.108. This allowance may be applied to both waiver eligible and waiver ineligible revenues at the discretion of the County MH/MR Program.
3. The county shall ensure that funding for waiver eligible services is not used to (a) purchase waiver ineligible services, (b) provided services or benefits for persons who are ineligible for waiver services or benefits, or (c) purchase services rendered by providers who are ineligible to render waiver services.
4. The county shall ensure that payment for a waiver-funded service furnished to a provider is not made to or through a factor, either directly or by power of attorney. A factor means an individual or an organization, such as a collection agency or service bureau, that advances money to a provider for accounts receivable that the provider has assigned, sold or transferred to the individual organization for an added fee or a deduction of a portion of the accounts receivable. A factor does not include a payment agent, such as a billing service or an accounting firm, that furnishes statements and receives payments in the name of the provider, if the agency's compensation for this service is:
 - (i) related to the cost of processing the bill;
 - (ii) not related on a percentage or other basis to the amount that is billed or collected; and
 - (iii) not dependent upon the collection of the payment.
5. The county shall ensure that all costs are appropriately distributed and accounted for in the annual reporting process.
6.
 - a. The county shall ensure that the annual fiscal year cost of waiver funded services does not exceed \$20,000 for any person. Service costs in excess of \$20,000 per person in a fiscal year may be paid or provided by other available funding streams based on the county's approval of the P/FDS plan.
 - b. The county shall ensure that persons receiving services under the P/FDS waiver do not have access to funding from the Consolidated Waiver for individuals with mental retardation, HCFA #0147.90, and the Infants, Toddlers and Families Medicaid Waiver, HCFA#0324.

- c. The county shall not authorize waiver funding under the P/FDS waiver for an individual who is also receiving services under another 1915(c) waiver without prior approval of the Department.
7.
 - a. The county is required to make payments to providers for waiver eligible services within the amounts established in the county's waiver allocation(s) and in any other special purpose allocation by the Department used for funding services for individuals receiving services.
 - b. The county shall not claim expenditures that exceed the county's allocation for waiver eligible services, or other categorical and special purpose funding provisions for individuals receiving waiver services.
8. County requests for an allocation change resulting from expenditures exceeding an allocation must be submitted to the Department for approval. Costs in excess of allocated funds cannot be reported by the county without the written consent of the Deputy Secretary for Mental Retardation.
9. The Department shall make quarterly waiver payments to the county.
10. The county is required to ensure that each provider of waiver service prepares billing for waiver eligible services at the end of each month of service or other timeframe approved by the Department.
11. The county is required to ensure that each provider billing specifies the name(s) of the person(s) receiving services or an alternate unique identifier approved by the Regional Program Manager; the name of the waiver eligible service or description of good and service received, and the total charges reflecting the number of actual units of waiver eligible service provided during the report period.
12. The county is required to establish a process for the quarterly review of all provider billings which ensures that:
 - a. Services are being provided in accordance with the P/FDS plan.
 - b. All persons are financially eligible for FFP based on a current eligibility notice from the County Assistance Office.
 - c. Room and board charges and waiver ineligible services are properly reported.

- d. Appropriate third party payors such as OVR or Medical Assistance are assessed for relevant service funding.
 - e. Providers are eligible to render waiver services and have used their correct provider number or identifier in billing.
13. The county is required to consolidate waiver billings and adjustments and complete a Department of Public Welfare (DPW) quarterly report. The DPW quarterly report shall be forwarded to the Bureau of Financial Operations (BFO) within 14 working days following the end of the quarter. The amounts must be identified as waiver eligible or waiver ineligible expenditures.
14. The county is required to make adjustments to its DPW Quarterly Report based on its quarterly review of provider billings. Adjustments shall be made in the fiscal quarter following the quarter in which the adjustments were reported by the provider with the exception of fourth quarter adjustments which shall only be included in the annual report. All quarterly adjustments including the fourth quarter adjustment must be reflected on the county's annual waiver expenditure report.
15. a. Annual reports shall be submitted to the Department for the waiver program in accordance with reporting instructions issued by the Department.
- b. The final reconciliation shall be contingent on receipt of actual provider audited costs with any subsequent final adjustments made in the following year's reports. The annual reports shall be prepared in accordance with instructions and on forms provided by the Department.
16. The county shall not assess a person for any financial liability for services funded under this waiver.
17. The county shall ensure that waiver funding is not claimed until the date the person first receives waiver funded services and after all of the following State assurances are met:
- a. The County Assistance Office has provided notice of individual eligibility for services.
 - b. The person has exercised service preference in accordance with Department policy, which is currently set forth in MR Bulletin 99-85-02 and MR Bulletin 99-87-08.
 - c. The person has a county approved P/FDS plan.

- d. Providers are determined qualified to render waiver services.
18. Reasonable and appropriate costs incurred prior to a person's meeting all the conditions in Subparagraph 17 are eligible for waiver funding when:
- a. The person is in the process of enrolling into waiver funded services.
 - b. Each service provided comports with the Department approved definition of a compensable waiver service.
 - c. The provisions of subparagraph 17d are met.
 - d. The provider maintains adequate financial records to substantiate the costs which are actually incurred.
19. The county agrees that all unresolved disputes between the county and the Department are subject to the exclusive jurisdiction of the Department's Office of Hearings and Appeals, provided that the county's right to legal redress and/or right to appeals shall is not be restricted or abridged.

SELF-DETERMINATION PAYMENT OPTIONS

- 1. a. The county is authorized to employ self-determination payment options as described in this section or otherwise approved by the Office of Mental Retardation. This authorization is based on the county's ability to demonstrate accountability in the use of waiver funding.
 - b. The selection of payment options is at the discretion of the County MH/MR Program which is not subject to appeal under waiver freedom of choice procedures.
 - c. The county must submit a request for a waiver of regulations when the self-determination payment option being employed by the county is not otherwise allowed under this agreement and/or under 55 Pa. Code Chapter 4300 Regulations.
2. The county is authorized to contract for service in a manner that promotes self-determination in the use of vouchers, coupons and co-signed checks with the person/family receiving support.
3. a. The county is authorized to pay a provider through a county payment agent pursuant to a written contract or agreement that stipulates the specific payment and related functions the payment agent is responsible to

provide the term of the agreement, how the county will ensure accountability in the use of waiver funding, and the cost of the payment agent's services.

- b. Where the county's payment agent is a contracted provider of service under the waiver, the contract shall prohibit comingling of service and payment agent funding, as well as factoring as defined herein.
 - c. Based on the county's agreement with the payment agent, the county payment agent is authorized to make payments to providers of waiver funded services and to fulfill other payment related functions pursuant to its agreement with the county.
 - d. The county shall pay the payment agent with county waiver administration funding allocated by the Department.
- 4.
- a. The county is authorized to permit a contracted provider of waiver services to purchase personnel for the provision of waiver funded services authorized by the county, pursuant to that provider's contract.
 - b. Where there is a purchased personnel arrangement with a contracted provider, the contracted provider is responsible to provide oversight, in conjunction with service management, to ensure that services are provided in accordance with the approved P/FDS plan.
 - c. The county is authorized to include the cost of the contracted provider's payment functions, together with the cost of purchased personnel services, in the contracted provider's service rate or charge. County waiver administration funds cannot be used as part of this provider payment.
5. The county is authorized to use waiver funds to pay a personal support provider to carry out payment functions for a person/family who is the employer of record of other providers of waiver service when each of the following conditions is met:
- a. A three part agreement is in place for the payment of services with the person/family, personal support provider and county.
 - b. A separate account is established for the person's services that contains a distinct accounting record of each provider, service and payment.
 - c. The cost for payment functions is included in the personal support provider's service rate or charge.

6. The county is authorized to pay for services without having a provider contract when the provider is not used as a regular referral source or when the provider does not have a continuing relationship with the county. For purposes of the agreement, a regular referral source is defined to mean a provider serving at least 10 persons a year. For purposes of the agreement, a continuing relationship is defined to mean a contracted relationship between the provider and the county that has been in effect for three or more years.
7.
 - a. The county is authorized to pay providers who are not subject to contract provisions through a written service agreement or vendor documentation.
 - b. A service agreement shall be required with any independent provider of habilitation and personal support services, and all providers of Extended State Plan services, Therapies, and Visiting Nurse services. An independent provider is defined to mean a provider who is not providing service as an employee, purchased personnel, or an affiliate of a contracted provider.
8.
 - a. Vendor documentation may be applied for only those entities that meet each of the following criteria:
 1. The entity providing the services is not a human service agency subject to contract with the County MH/MR Program.
 - 2) The entity providing the service and the service being provided, are not subject to licensing or certification under 55 Pa. Code Chapter 2380, 2390, 6210, 6400 or 6500 regulations, Chapter 2620 under Articles IX and X of the Public Welfare Code for Personal Care Homes and Title B, and Chapter 21 for Domiciliary Care Homes for Adults.
 - 3) The entity is not providing extended state plan services, visiting nurse services, or specialized therapies as defined in MR Bulletin 6000-90-05 titled, Nursing and Other Specialized Therapies.
 - 4) The entity, when it is a business, offers services or goods within normal business operations, offers similar services to different purchasers, and operates in a competitive environment.
 - b. Vendor documentation can only be used with vendors providing the following waiver eligible services: homemaker/chore services; respite services; adaptive equipment and appliance services; environmental accessibility adaptations.

- c. An entity that meets the criteria for vendor is exempt from all requirements of 55 Pa. Code Chapter 4300, and from all requirements for an MA provider agreement as established in Department policy, which is currently in MR Bulletin 6000-90-04. Vendor payments are not considered federal awards subject to review under Medical Assistance, and are also not subject to cost reconciliation under 55 Pa. Code Chapter 4300. Funding paid to vendors is not subject to review under the Single Audit Act.
- d. The payment of a vendor for the service shall be documented by a cancelled check and invoice, service agreement, signed lease, sales or purchase agreement, receipt and/or other written record that ensures accountability in the use of funds.
- e. No service contract or agreement is required for the following vendor services: environmental accessibility adaptations and adaptive appliances and equipment.

PROVIDER PARTICIPATION:

1. A provider is the entity responsible for the provision of waiver funded services identified in the P/FDS plan. The provider can be a qualified family member, friend or associate, business, vendor, agency which employs qualified staff or purchased personnel, consortium, association, or other enterprise, profit or non-profit, that meets the Department's qualifications for the provision of services.
2. A provider whose Medical Assistance provider agreement is terminated or who has been excluded from the Medical/Medicare Program is not eligible to receive waiver funding. The county shall exclude such entities from receiving either direct or indirect waiver payments on receipt of a notice of such termination and/or exclusion by the Department.
3. The county is responsible to ensure that federal and state funding is excluded when the provider is a parent providing services for a minor child under the age of 18 and when the provider is a spouse of the person receiving services. For other family members including parents of an adult, federal and state financial participation under the waiver is allowable only when:
 - a. The service provided is not a function which the spouse or parent would normally provide for the individual without charge as matter of course in the usual relationship among members of the nuclear family.

- b. The service would otherwise need to be provided by a qualified provider who is not a family member.
 - c. A qualified provider who is not a family member is either not available to provide this service or can only provide the service at an extraordinarily higher cost than the fee or charge negotiated with the qualified family member.
- 4. The county is responsible to ensure that providers of service have access to information regarding waiver funding and services, including all policies and procedures, waiver applications and amendments, and instructions that have a bearing on the provider's compliance with state and federal requirements.
 - 5. All unresolved contract disputes between providers and Counties are subject to the requirements of 55 Pa. Code § 4300.139(d) (relating to procedures to resolve contract disputes) and to portions of the Judicial Code relating to the use of arbitration and the jurisdiction of the Court of Common Pleas.

PROVIDER QUALIFICATIONS AND STANDARDS

- 1. The county is responsible to ensure that all providers, including vendors, meet qualifications and standards for the provision of services as established by the Department in its approved waiver application, including state clearances for child/abuse and criminal history as required by law.
- 2.
 - a. The county is responsible to ensure that all providers of respite, personal support, homemaker/chore and unlicensed habilitation services are certified using form MR 42-11/92, as contained in MR Bulletin 00-92-24, titled: County Responsibility for Waiver Funded Habilitation in a Private Home.
 - b. As part of the provider certification process, the county is responsible to ensure that all unlicensed providers of respite, personal support, homemaker/chore and unlicensed habilitation services complete necessary pre and in-service training based in the person/family directed support plan.
 - c. The county shall certify the agency as the provider when waiver eligible services are provided by employees or purchased personnel of that agency. The county shall certify the person providing services only when the person is an independent provider, as defined in this agreement.
 - d. The county's signing of the provider's certification shall be made by the county MH/MR administrator or his/her designee who must be a public

- e. The county's signing of the provider's certification shall be made by the county MH/MR administrator or his/her designee who must be a public employee of the county, including an employee of a service management agency when that agency is part of the County MH/MR Program.
 - f. The county is authorized to delegate responsibilities to verify provider qualifications and standards to entities outside the County MH/MR Program as long as the signing of the provider certification form is done by the county administrator or the administrator's designee who must be a public employee of the county.
3. The county is responsible to ensure that all providers of licensed habilitation, transportation, extended state plan services, visiting nurse and specialized therapies meet standards established in the Department's approved waiver application by obtaining a copy of the provider's license or certification to provide services.
 4. The county is responsible to ensure that providers of service in a contiguous state have the appropriate license/certification for any waiver eligible services being provided in that state.
 5. The county is responsible to ensure that oversight is provided for all unlicensed providers of service by a qualified mental retardation professional or a service manager. Oversight shall consist of ensuring that services are provided in accordance with the person/family directed support plan.
 6. The county is responsible to ensure that providers meet qualifications and standards established in the approved waiver application through periodic review by the county or its delegate who may be a payment agent, contract monitor, service management agency, or provider responsible for oversight.
 7. The county is authorized to withhold, restrict and require the return of waiver eligible funding to any provider who does not meet qualifications and standards established in the Department's approved waiver application.

PROVIDER CHOICE AND ACCESS

1. In accordance with Medical Assistance requirements, the individual's right to provider of choice applies to any provider who:
 - a. Is qualified to render services in accordance with the standards and criteria established in the Department's approved waiver application.

- b. Signs a provider agreement for the provision of waiver-funded services in accordance with Department procedures which are currently contained in MR Bulletin 6000-90-04, titled: Provider Agreements Under 2176 Waiver, and
 - c. Agrees to offer cost-effective services based on a county contract or agreement.
 - d. Complies with the conditions of service established in its agreement or contract that with the county.
2. Providers of service who meet provider qualifications in the Department's approved waiver application cannot be denied access to providing services on the basis of single source contracting or other practices which would deny or limit choice of qualified providers by the individual or his/her legal representative.
3. Although a denial of a qualified provider is subject to fair hearing and appeal, the county is authorized to deny a person/family the choice of a qualified provider when:
- a. The provider does not sign or comply with a service contract or agreement required in accordance with the County MH/MR Fiscal Manual, Pa. Code Chapter 4300.
 - b. The provider's rate or schedule of charges for service is higher than necessary and reasonable for the service, as determined by the County MH/MR Program.
 - c. The provider has failed to deliver services in accordance with the P/FDS plan or is in violation of state assurances.
4. In order to restrict access to a provider of waiver services, a county must establish a process that is approved by the Regional Office of Mental Retardation in accordance with 42 CFR 431.54. The process must assure that:
- a. The provider is given notice and opportunity for a hearing.
 - b. There are findings to document that in a significant number or proportion of situations, the provider has furnished:
 - 1) Waiver services at a frequency or amount that are not necessary based on the person's plan, or

- 2) Waiver services that do not meet professionally recognized standards of care and quality.
- c. HCFA and the public are notified of the decision to place restrictions on the provider and the duration of the restriction.
- d. The restrictions do not result in denying recipients reasonable access to services of adequate quality.

PROVIDER RESPONSIBILITIES UNDER CONTRACT OR AGREEMENT

1. All contracts for waiver funded services shall include the following additional standard provisions:
 - a. The provider shall use funds available under the waiver for only those individuals authorized by the county and eligible to receive waiver eligible services.
 - b. The provider shall use funds available for waiver eligible services for only those services authorized by the county in accordance with the P/FDS plan.
 - c. The provider shall maintain adequate program and financial records which separately identify recipients, funds and services under the waiver from recipients, funds and services reimbursed by other means:
 - d. The provider agrees to ensure that all employees and personnel rendering service for the provider are qualified in accordance with the standards established in the Department's approved waiver application.
 - e. The provider shall preserve books, documents, and records until the expiration of four years after the waiver funded service is furnished under the contract and give full and free access to (i) the Commonwealth, (ii) the U.S. Comptroller General, (iii) the U.S. Department of Human Services, and their authorized representatives.
 - f. Records which relate to litigation or the settlement of claims arising out of the performance or expenditures under this contract, to which exception has been taken by the auditors, shall be retained by the provider until such litigation, claims, or exceptions have reached final disposition.

- g. The provider assures that it presently has no interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of its services hereunder. The provider further assures that in the performance of this contract, it will not knowingly employ any person having such interest.
 - h. The provider understands and agrees that all services provided under this contract and billed by the provider to the county or its payment agent for waiver services are subject to all of the provisions of this agreement and that the provider shall be held fully responsible for the performance thereof.
 - i. The provider further understands and agrees that this contract is subject to all pertinent federal, state and local laws and regulations and all amendments made thereto. Definitions of service, eligibility of persons for service and other limitations in this contract are subject to modification by amendments to federal and state laws and regulations without further notice to the provider.
 - j. The provider agrees to furnish to the Commonwealth, the U.S. Comptroller, the Department of Health and Human Services, or their authorized representatives such information as required under 42 CFR 431.107.
 - k. The provider agrees that these standard provisions will be applicable to and included in each subcontract for waiver services and shall also apply to organizations related to Contractor/Subcontractor.
 - l. If the contract to provide waiver eligible services is terminated, the provider agrees to preserve the records relating to waiver funded services provided according to paragraphs e. and f.
 - m. In the best interest of the person and in order to maintain the person's eligibility for medical assistance, the provider, whenever serving as representative payee for Social Security or other federal benefits, shall remit promptly and in full, all funds received from the State Center for the individual which are due and owing to the State Center for care received. This remittance shall take place within 30 days after the representative payee receives the funds.
2. Each service agreement for waiver funded services shall specify:

- a. The service being provided, including the frequency and duration of the service.
 - b. The rate of compensation by unit of service.
 - c. The method of payment.
 - d. Other conditions established by the county which may include provider pre/in service training requirements, bonding, and liability insurance.
3. All agreements for waiver funded services shall include the following additional standard provisions:
- a. The provider shall use funds available under the waiver for only those individuals authorized by the county and eligible to receive waiver eligible services.
 - b. The provider shall use funds available for waiver eligible services for only those services authorized by the county in accordance with the person/family directed support plan.
 - c. The provider shall maintain adequate program and financial records which separately identify recipients, funds and services under the waiver from recipients, funds and services reimbursed by other means.
 - d. The provider shall preserve books, documents, and records until the expiration of four years after the waiver funded service is furnished under the contract and give full and free access to (i) the Commonwealth, (ii) the U.S.
 - e. Comptroller General, (iii) the U.S. Department of Human Services, and their authorized representatives.
 - f. The provider agrees to furnish to the Commonwealth, the U.S. Comptroller, the Department of Health and Human Services, or their authorized representatives such information as required under 42 CFR 431.107.
 - g. The provider agrees to ensure that all employees and personnel rendering service for the provider are qualified in accordance with the standards established in the Department's approved waiver application.