

Division of Developmental Disabilities Services
Department of Health and Social Services

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Request for New Residential Location

I. Overview.

The Division of Developmental Disabilities Services (DDDS) is committed to providing housing to its clients in the least restrictive, most integrated setting possible. DDDS promotes and supports individual choice in the development of housing, and recognizes that the “where” and “with whom” an individual lives are important aspects of one’s identity. DDDS is committed to developing housing that reflects individual choice, while taking into consideration all necessary supports, health and safety needs, and program cost.¹ DDDS’ consideration of requests from clients, families, and providers to create a new residence shall be guided by DDDS’ Mission Statement, Vision Statement, and Beliefs Statements and Guiding Principles.² DDDS’ procedure “Request for New Residential Location” (hereinafter the “Procedure”) shall apply to any requests submitted to DDDS for the creation of a new residence, including requests for free-standing “group homes” as well as requests for apartments, condominiums, and townhouses, collectively referred to as “Community Living Arrangements” or “CLAs.” DDDS will interpret this procedure to remain in compliance with the State’s obligations under controlling State or federal law, including *Olmstead v. L.C.* (1999), the Americans with Disabilities Act, the Fair Housing Act, and, as applicable, Medicaid Home and Community Based Services regulations.

II. Relationship to Funding.

When DDDS funds an individual for residential placement, those funds are allocated to the individual based on their individual level of support needs. DDDS’ decision to fund an individual for a residential placement is a separate and distinct decision from the decision by DDDS to approve or disapprove a proposed residential location. A decision by DDDS to deny a proposed residential location shall not affect the funding of the proposed home’s individual prospective residents.

III. Request for a New Residential Site.

- a. Eligibility. Individuals served by DDDS who have received written approval from the Division for funding for a residential placement may submit a request, consistent with this Procedure, for the development of a new residence.

¹ Costs shall be determined consistent with the Department of Health and Social Services Procedure Memorandum No. 62, “Housing DHSS Rent Calculation Formula for Residential Sites,” attached as “Appendix A.”

² Attached as “Appendix B” and available at <http://dhss.delaware.gov/dhss/ddds/mission.html>.

b. Request Submission.

There are two ways in which requests for new residential sites may be brought to the attention of DDDS: (1) by the ARC of Delaware (the “ARC”), consistent with the MOU between DDDS, effective September 19, 2013;³ or (2) by direct request from a prospective resident, guardian of a prospective resident, family of a prospective resident, or provider agency.

Broadly, the consideration of a new residential site is a two-step process. First, a request for a new residence must be submitted to DDDS. At a minimum, this request must include (as outlined in Section III (b)): (i) the prospective residents; (ii) the provider agency; (iii) the reason for the site development; and (iv) the general location of the proposed residence. Once an application for a new residential location has been approved by DDDS, then the approved applicants may begin looking for a location for the residence. All proposed residential locations must be submitted to DDDS for consideration and final approval. DDDS will consider proposed residential locations based on the criteria set forth in Section IV.

c. Request for a New Residence - Required Information.

i. Prospective Residents. A request pursuant to this Procedure must identify those prospective residents who will live in the proposed residence. DDDS promotes the development of residences for three individuals. However, DDDS will consider homes of other sizes if doing so allows those individuals and DDDS to maximize specific and identified resources or meet the clearly identified needs of the individuals. A request for a new residence must explain the reason for the proposed number of perspective residents and why the proposed configuration is in the best interest of those individuals.

1. Four Person Proposed Site. An application for a proposed 4-person home must have at least three prospective residents identified, two of which must be available to move in as soon as the prospective location is ready. A third resident must be identified and move in within 30 days of the site becoming operational. A fourth resident must be identified and moved in within 60 days of the site becoming operational.
2. Three Person Proposed Site. An application for a 3-person site must have at least two prospective residents identified and available to move in as soon as the prospective location is ready.

³ Attached as “Appendix C.”

A third resident must be identified and moved in within 30 days of the site becoming operational.

3. Two Person Proposed Site. An application for a 2-person site must have both prospective residents identified and available to move in within 30 days of the site becoming operational.
 4. Other Proposed Sites. DDDS will consider applications for other residential capacities should a specific and identified need for a larger or smaller home be put forth. DDDS strongly disfavors larger capacity sites and will only consider such a proposal under extraordinary circumstances.
- ii. Provider Agency. For the purposes of this Procedure, a “provider agency” is an identified and confirmed entity that will appropriately support and serve the prospective residents in their home.
 - iii. Reason(s) for Site Development. An application must identify, as specifically as possible, the reason(s) why the applicant believes a new site is required. DDDS will make all of its decisions on a case-by-case basis and reserves the right to approve or deny potential sites that fall within the following or other categories. In general DDDS will consider three types of site development for residential placement:
 1. Expansion: An expansion site is a new site to be developed for individuals who are new to DDDS or new to the identified provider agency.
 2. Residence Relocation: A relocation is for those circumstances in which all residents of a current residence desire to move as a collective unit, including but not limited to the following situations: (i) the current site no longer supports the residents’ needs; (ii) the residents wish to move to a different location (either geographic or housing type); (iii) the landlord will not renew the existing lease; or (iv) the residents and/or their supporting provider agency are not satisfied with landlord’s maintenance of the property.
 3. Individual Relocation: An individual who is already in a DDDS residence may choose to move if he or she is unhappy in the current home or believes he or she needs a different type of setting (geographical, housing type, available supports, or roommate) to be successful.

- iv. General Location. An application must identify, in general terms (city, zip code, landmarks, etc.) the proposed location for the residence.

d. DDDS Decision on New Residence Request.

- i. Decision by DDDS. DDDS will make a decision on a request for a new residence within thirty (30) days of receiving a request, which meets the requirements set out in Section III (b) of this Procedure. DDDS shall not be responsible for independently seeking out information regarding the proposed residence and may rely solely on the information provided by the applicant when making its decision. However, at its discretion DDDS may interview or otherwise communicate with the prospective residents and their families as well as the proposed provider agency to gather any additional information that DDDS believes is needed to make a decision on the request. DDDS shall provide its decision to approve or deny a proposed residence in writing to all of the prospective residents as well as to the individual or group who submitted the application on the residents' behalf.
- ii. Request for Reconsideration. Should DDDS deny a requested residence, any of the parties requesting the residence may make a written request to the Director of DDDS for reconsideration. A request for reconsideration must provide new information not already considered by DDDS. Any request for reconsideration which does not provide new information will not be considered. The Director of DDDS will provide the parties who requested reconsideration with a written decision within fourteen (14) days of receiving the written request for reconsideration.
- iii. Finality of Decision and Future Requests. All decisions made by DDDS regarding proposed residences are discretionary and not subject to appeal. A decision by DDDS to deny a proposed residence in no way acts as a bar to future residential requests from the same parties.

IV. New Residence Location Selection.

a. Procedure.

- i. Location Submission. Once DDDS approves a request for a new residence, the applicant may search for suitable sites within the approved general location. Once a suitable site is located, and prior to any purchase or lease of any proposed site, the applicant shall submit the address of the specific proposed site location to DDDS for approval in accordance with Section IV (b). Applicants may propose more than one site for DDDS

consideration. The factors DDDS will take into account when evaluating a proposed residential location are identified in Section IV (b).

- ii. Decision by DDDS. The date which DDDS receives the address(es) of the proposed site(s) shall be considered the date the location request was submitted. DDDS will provide the applicant with a written decision on any proposed residential locations within thirty (30) days of receiving the proposed site(s) address(es). DDDS shall provide its decision to approve or deny a proposed location in writing to all of the prospective residents as well as to the individual or group who submitted the application on the residents' behalf.
 - iii. Supporting Information. DDDS encourages applicants to provide as much information as possible detailing why they have selected the proposed site(s) and, to the extent possible, how the proposed site(s) satisfy the selection criteria in Section IV (b). Such information must be submitted together with the address(es) for the proposed site(s). Any information regarding the proposed site(s) which is subsequently provided may be considered at the discretion of DDDS and shall not be used to enlarge the thirty (30) day period for DDDS to make a decision. DDDS shall not be responsible for independently seeking out information regarding the proposed site(s), and may rely solely on the information provided by the applicants as to the site(s)'s appropriateness for the prospective residents when making its decision. However, at its discretion DDDS may interview or otherwise communicate with the prospective residents and their families as well as the proposed provider agency to gather any additional information that DDDS believes is needed to make a decision on the request.
 - iv. Finality of Decision and Future Requests. All decisions made by DDDS regarding residence location are discretionary and not subject to appeal. A decision by DDDS to deny a proposed location in no way acts as a bar to future requests to use the proposed location.
- b. Proposed Site Criteria Considered by DDDS. DDDS recognizes that the location of a residence must take into account the preferences and needs of the individuals who will make the location their home. DDDS also recognizes that the location of a residence must further the integration of an individual into the neighborhood and greater community.

DDDS does not require that a proposed site for a new residence be located any specific distance away from existing residences.

Once DDDS has received a request for a new residence, it will consider the factors enumerated below when assessing whether to approve the requested location.

The factors that DDDS shall consider when assessing a proposed location are:

- i. Resident Identified Preferences: The prospective resident(s)'s wishes for where to live, including identified neighborhoods, proximity to friends and family, pre-selected roommates, and self-identified housing needs;
- ii. Family Identified Preferences: The preferences of the prospective resident(s)'s family(ies) to the extent they are consistent or otherwise do not conflict with the prospective resident(s)'s identified preferences;
- iii. Community Integration: The setting is integrated in the community in that it enables persons with disabilities to interact with persons without disabilities to the fullest extent possible and that a person or persons without disabilities in the same community would consider it part of their community and would not associate the setting with the provision of services to persons with disabilities.
- iv. Neighborhood Characteristics: The neighborhood or surrounding community provides opportunities for residents to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services;
- v. Treatment and Care Needs: The individualized treatment needs and plans of care for each prospective resident of the home;
- vi. Accessibility: The accessibility of the proposed location, including the proposed house, apartment, or condominium, as well as the surrounding neighborhood; accessibility shall include consideration of prospective residents' access to public transportation and/or access for any specialized or adapted vehicles;
- vii. Safety and Security: Whether the proposed location of the prospective residence presents any safety or security concerns for the well-being of the prospective residents of the home; and
- viii. Cost: The fiscal impact of the proposed housing to the State, including whether the proposed housing is new construction,

refurbishing existing housing stock, the anticipated monthly rent and other operational expenses of the house, and the cost of living in the selected location. Any consideration of cost by DDDS in approving a new residential location shall not negate or be a substitute for final budgetary approval as outlined in Section V.

V. New Residence Budget Approval.

a. Lease Authorization Request.

Once DDDS has approved a new residential location, the applicant must submit a copy of the DDDS' Lease Authorization Form along with an unendorsed lease to the Office of Professional Services (OPS). These documents will then be submitted with all other required documents to the DDDS Office of Budget, Contracts, and Business Services for approval ("OBCBS").

b. Rental Rates.

Proposed rental rates will be considered by DDDS using the Department of Health and Social Services Procedure Memorandum No. 62 and the HUD FY fair market rates.⁴ Rental rates to be paid by each individual resident of the proposed home may not exceed the HUD fair market rate for that fiscal year unless there are unique costs associated with the proposed home and the provider agency identified to operate the home will be unable to cover operational costs without a rental rate that is above the HUD fair market rate. DDDS shall have sole discretion to determine whether a request for such a rental rate is appropriate.

c. OBCBS Decision.

OBCBS shall notify the relevant Regional Program Director ("RPD") and the Director of the OPS of its decision to approve or deny the requested lease authorization. OBCBS shall provide its decision in writing explaining the reason why the requested lease was either approved or denied. The RPD shall then communicate OBCBS' decision to the applicant, including a copy of OBCBS' written decision.

- i. Lease Approval. If the lease is approved, the provider agency must secure telephone, electric, water, gas, and other necessary utilities for the location prior to any residents moving in. The provider agency must also contact the regional Office for Quality Management for a site review and approval prior to the first resident moving in. Additionally, the provider agency must maintain frequent contact with the RPD and OPS until the site is

⁴ HUD FY Fair Market Rental Rates available here, <http://www.huduser.org/portal/datasets/fmr.html>.

opened and for thirty (30) days after all of the residents have moved in to the new residence. If the new residence is the first residence managed by a provider agency, the provider agency must have in-person meetings at DDDS' discretion and request throughout the process of opening the new residence to ensure the provider agency receives appropriate support and guidance.

- ii. Lease Denial. If a lease is denied, the provider agency shall be given an opportunity to renegotiate the terms of the lease with the prospective landlord and resubmit new lease terms to DDDS. If the provider agency is unable to negotiate lease terms which are acceptable to DDDS, then the site shall not receive final approval.