

**Statement of Rights for Home and Community Based Waiver
Program for Persons who have Mental Retardation and/or Developmental Disabilities
Please Keep This Statement with Your Important Papers**

1) ELIGIBILITY DETERMINATION PROCESS:

You can either submit an application or a "Statement of Interest" (DD-14) depending on the date when you anticipate that your need for MR/DD Waiver service will begin.

A) If you need services within 0 - 90 Days:

~ You may submit your application to a qualified behavioral health center, the State MR/DD Waiver office or the local Department of Health and Human Resources (DHHR) office. If the application is submitted to a behavioral health center of local DHHR office, there will be a form with the application which should be mailed to the State MR/DD Waiver office to indicate the date the application was submitted. If the application is submitted to the State MR/DD Waiver office, it should indicate the name of the qualified behavioral health center you choose.

~ Your behavioral health center will submit a full application packet to the State MR/DD Waiver office within 45 days of receiving the application.

~ Within 45 days of receiving the full application packet, a final eligibility decision will be made by the State MR/DD Waiver office.

~ If a slot is immediately available, you will be placed on the MR/DD Waiver Program. If a slot is not available, you will be placed on a wait list to be maintained by the State MR/DD Waiver office. You should not be on the wait list longer than 90 days.

B) Anticipated Need Of Service To Exceed 90 Days (91 Days or Greater):

~ If you anticipate that you will need services from 90 days to a year from the date you contact one of the MR/DD Waiver sites listed above, you should submit a "Statement of Interest" to a qualified behavioral health center, the State MR/DD Waiver Office or the local Department of Health and Human Resources (DHHR) office. You will be placed on a Planning Registry to be maintained by the State MR/DD Waiver office.

~ Based on when you say you will need services, you will be notified of the date by which an application and a full application packet should be submitted. An application and full application packet will not be submitted until that date. Decisions regarding eligibility shall be made as described in (A).

~ If you do not anticipate that you will need services from more than a year, you will receive a notice from the State MR/DD Waiver office on the anniversary of the entry of your name in the Planning Registry to update your information.

~ When the anticipated need of service date approached, an application and full application packet will be submitted. Decisions regarding eligibility shall be made as

described in (A).

- 2) **You may submit an application and/or “Statement of Interest” to the qualified behavioral health center of your choice, the State MR/DD Waiver Office, or to any local Department of Health and Human Resources (DHHR) office.**
- 3) **You have the right to apply without delay.**
- 4) **All persons who apply are entitled to an eligibility determination within 90 days of the date of application, except in unusual circumstances, for example:**

~ **When the agency cannot reach a decision because the applicant or an examining physician delays or fails to take a required action; or**

~ **When there is an administrative or other emergency beyond the agency’s control.**

5) **DUE PROCESS RIGHTS:**

- A) **If an application is denied, you will receive a “Notice of Decision” and “Request for Hearing” form. (Please see attached). You may appeal the decision through the fair hearing process.**
- B) **If MR/DD Waiver services are terminated or reduced, you will receive a “Notice of Decision” and “Request for Hearing” form. You may appeal the decision through the fair hearing process. If the services are terminated, they may continue until the hearing is held, but the request for hearing or pre-hearing conference must be made within 13 days of the date of notice.**
- C) **If the MR/DD Waiver services are delayed, you may use the attached “Request for Hearing” form to request a hearing.**
- D) **You shall be afforded 90 days to request a hearing. Any applicant, recipient or authorized representative may request a hearing and must do so either by any written request or by using the attached “Request for Hearing” form.**
- E) **those who request a hearing shall be entitled to a final administrative action within 90 days of the date of the request for hearing, unless you waive the right to a final administrative action within 90 days.**
- F) **You shall have a right to a second medical examination at the Department’s expense if the decision was based on medical reasons.**
- G) **You shall have the right of access to your file and copies free of charge.**
- H) **The Department will assist in arranging transportation to the hearing, if needed.**

If you have questions, you can also contact:

**West Virginia Advocates at (800) 950-5250;
West Virginia Legal Services Plan at (304) 623-6649; or
Appalachian Legal Services at (800) 834-0598.**