

YOUR RIGHTS



In
Intermediate
Care Facilities
for Persons with
Mental Retardation
(ICF-MR) Programs



TEXAS
Department of Aging
and Disability Services

For additional copies of this publication, contact Consumer Rights and Services

DADS Media Services 11P450 • May 2011 • Publication 110

Published by
Texas Department
of Aging and
Disability Services



This book belongs to:

Two horizontal lines for writing a name.

Table of contents

- A special note about your rights 2
- Important words and what they mean 3
- Your rights under the Persons with Mental Retardation Act 5
- Your rights in an ICF-MR program 6
- Your rights under the surrogate decision-making program 10
- Your guardian’s rights 11
- Your responsibilities 12
- Special Meetings
 - Guardianship hearing 13
 - Planning meeting 13
 - Specially constituted committee 14
- How to make a complaint 14
- State offices 15
- How to reach your QMRP 16



A special note about your rights

This handbook tells you about the rights and privileges you have if you are receiving services in programs offered in the community through the Intermediate Care Facilities for Persons with Mental Retardation (ICF-MR). If you have chosen an ICF-MR group home operated by the Texas Department of Aging and Disability Services (DADS) as your provider of services, you may also want to refer to an additional handbook called “Your Rights in Mental Retardation Community Programs.”

There are some basic things that guide your rights.

- 1 People have rights.** Rights are what you are allowed to do and how you should be treated.
- 2 Rights are not limited without due process.** Due process is a review process that makes sure your rights are not taken away from you without a good reason.
- 3 People are free from abuse and neglect.**
- 4 People have responsibilities with the exercise of rights.** Responsibilities are your duties that you need to try to do, if you are able.

Staff can help you learn about your rights and responsibilities.

All services are provided in compliance with the Civil Rights Act of 1964, as amended, and in the Americans with Disabilities Act of 1990.

Important words and what they mean

Advocate – A person who helps you make decisions and looks out for your best interests.

Appeal – To ask for a special meeting when you disagree about a decision.

Behavior Therapy Program – A written, specialized program that staff can use to help you learn how to control your behavior.

Consent (informed consent) – When you agree to do something or give permission to do something. You must understand what you are agreeing to, be over age 18, and not have a guardian.

Due process – A review process to make sure your rights are not taken away from you without a good reason.

Determination of mental retardation (DMR) – Testing done by a doctor or psychologist to find out if you have mental retardation.

Guardian – Somebody appointed by the courts (often your parent or other adult family member) or your parent if you are under age 18. Your guardian makes certain decisions, as outlined in the court papers. These decisions may be about your money, your rights, and/or your physical needs.

Hearing – A special meeting to talk about something with which you or your guardian do not agree.

Planning meeting – A meeting with your team to develop service plans that will help you meet your goals. (This is sometimes called a “staffing.”)





Qualified Mental Retardation Professional (QMRP) – The staff member who arranges services to meet your needs and help you achieve your goals. Sometimes this person is known as your case manager, your service coordinator, or your Individual Program Coordinator (IPC).

Responsibilities – What you need to do in order to have your rights and to continue your services

Rights – What you are allowed to do and how you should be treated.

Specially Constituted Committee – A committee that reviews, approves, and monitors behavior therapy programs or other programs that may involve a restriction to your rights.

Surrogate Decision-maker – A family member or close friend that can make certain kinds of decisions for you.

Surrogate Consent Committee – A group of specially trained people who can make certain kinds of decisions for you.

Team (interdisciplinary team) – A group of people who make suggestions for the programs that will help you meet your goals or dreams. You and your guardian are also members of the team.

Treatment – This is something that is done for you, like providing you with training.

Your rights under the Persons with Mental Retardation Act

If you are a person with mental retardation living in Texas, you have the following rights:

- 1 You have the same rights all citizens have, unless some of these rights have been taken away by a judge. These rights include the right to vote, to practice a religion, to keep your own possessions, to contract for something such as buying a house, and to get married. You cannot be treated differently because of your disability.
- 2 No one has the right to hurt you, take advantage of you, or ignore your needs.
- 3 You have the right to live and receive services where you can make as many of your own decisions as possible. This may be with your family, with your friends, alone, or where there are people trained to help you.
- 4 You have the right to go to public school until age 22.
- 5 Before you receive services, a doctor or a psychologist must determine that you have mental retardation and explain to you what that means. If you do not agree with them, you can also ask for a meeting to review your case. You can ask for a second opinion that you would pay for with your own money. You can ask for services from other agencies and organizations.





- 6 For issues needing consent, you should be able to understand what you agree to. If you have a guardian, he or she may make decisions for you.
- 7 Before a guardian is named, you will have a hearing in court with a judge. Only a judge can give you a guardian. That guardian may be a parent or another adult. This hearing is considered due process.

- 8 If you are looking for a job and have the skills to do the job, you cannot be denied it just because of your disability. If you have a job, you have the right to be paid fairly like everyone else.
- 9 You have the right to have treatment and services that are best for you. You can change your mind about any or all of the services you receive.

Your rights in an ICF-MR program

If you receive services in a community-based ICF-MR program, you have all the rights listed in this handbook under the Persons with Mental Retardation Act. In addition, you also have the following rights:

- 1 You have the right to a normal home with a good setting. Your home should be clean and safe.
- 2 You and your guardian or advocate should be told about your medical condition, how you are doing, any problem behaviors, the risks of treatment, and your right to refuse treatment.
- 3 You have the right to be free from unnecessary drugs and/or restraints. If you do things that hurt you or

others, you may be given drugs and/or be restrained. There has to be a plan for you that will help cut down on the need for drugs and/or restraints. This plan is known as a behavior therapy program.

- 4 You do not have to do work without pay. If you have a job, you have the right to get paid fairly. Helping around the house, such as cooking or cleaning up, is not considered work, but is a responsibility. Responsibilities are what you need to do in order to have your rights and to continue your services

- 5 You may meet with other people in a place where you can be alone.

- 6 You can send and receive your mail without anybody opening it. If you need help sending, opening, or reading your mail, you can ask someone to help you.

- 7 You have the right to choose and keep any objects and clothing that are yours. You have the right to wear clothing that fits, is in good condition, and keeps you warm or cool enough. If you don't have suitable clothing, it will be provided for you. You should also be provided a place to store your things.

- 8 If you are married and you both live in the same home, you have the right to share a room.

- 9 You should always be treated with respect. You have the right to not have anyone hurt you, say mean things to you, be too personal with you by touching you in the wrong way, or make you feel bad





by what they say or do to you. Tell staff, your parent, guardian, or advocate if this happens. Report all abuse to ICF-MR at 1-800-458-9858.

10 You have the right to have regular mealtimes. You, your doctor and/or nutritionist can help decide what kind of food is best for you.

11 You have the right to visit anyone you want. You can meet privately with visitors. Be careful not to bother the others in your home because of your visits. Your friends and family can visit you here and, if it is okay with your friends or family, you can go visit them.

12 You have the right to manage your money, be trained to manage your money, or have help in handling your money. You can ask staff if you need help or have questions. You can look at records that show how much money you have. If you have a guardian, they may decide how your money is managed.

13 You have the right to make and receive telephone calls in private. You can ask staff to help you.

14 You have the right to make decisions about your daily life, including things like what you want to wear.

15 You have the right to privacy during treatment and care of your personal needs and when you want to be alone. If staff help care for your personal needs, they should close the door so other people cannot see you. Everybody should knock before entering, and wait for you to answer if you can, before entering your room.

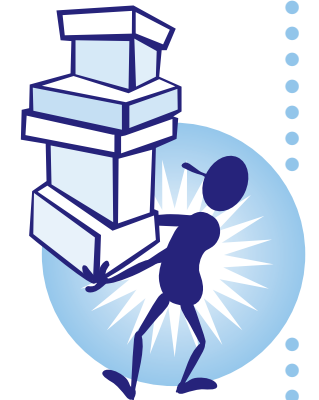
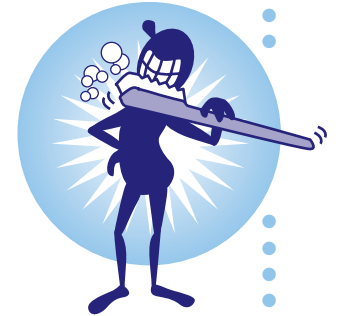
16 You have the right to be out of bed and out of your bedroom during most of the day, moving around and doing things. Staff will help move you if you need help.

17 You should be provided with basic personal items and supplies, like shampoo and toothpaste. If you like a different brand or type of personal need item, you can buy the item you like with your own money.

18 You have the right to receive medical and dental care just like everyone else in the community.

19 You have the right to have services and supports that will help you do things for yourself like taking care of your own personal needs. A plan for your treatment will be developed by you, your guardian, and your team. You have the right to go to meetings about you and tell your team what you want to learn and be involved in. This includes your annual planning meeting. You can also invite a friend or advocate to your meeting.

20 You do not have to be moved from where you live without a good reason, unless it is an emergency. You should be given enough time to get ready to move. If you feel you are being rushed, ask for more time to get ready to move.





Your rights under the Surrogate Decision-making Program

The Surrogate Decision-making Program does not apply to you if you have a guardian.

Major medical and dental treatment

If you need major medical or dental treatment such as surgery, the law requires the doctor or your team to explain why you need it and all the good or bad things that could happen if you agree to the treatment. Someone must also tell you what could happen if you decide not to have the treatment. Before the treatment can be done, you must agree to it and sign a consent form. This is called informed consent.

If you are not able to make a consent decision, you have the right to have assistance. Your team may ask a close family member or friend to sign the consent for you. This person is known as a surrogate decision-maker (SDM).

If you do not have a close family member who can do this for you, your team may request a group of specially trained people to meet and decide for you. This group is called a surrogate consent committee (SCC). You will be invited to attend the SCC meeting and say what you think about the treatment.

Psychoactive medication and highly restrictive procedures

If you take medicine for the treatment of a mental disorder or for control of behavior, such as serious nervousness or extreme anger, you have to give informed consent just as for major medical treatment. For medicine, if you cannot

give consent, the team must ask a SCC to meet and decide for you if the medicine is the best treatment for you.

If your team decides you need a behavior management program that uses highly restrictive procedures, such as restraint or time-out, you must be given information about the procedure. If you want this program, you will then need to give consent. A SCC will be appointed to decide for you if you cannot give your informed consent.

You must attend the committee meeting unless there is a good reason why you cannot. Your family cannot sign consents for psychoactive medication or a highly restrictive procedure but can be invited to attend the SCC meeting and give their opinion. You have the right to ask good friends, your advocate, or your family to attend SCC meetings, also.

Your guardian's rights and responsibilities

If you have a guardian, there are certain decisions they can make for you.

Your guardian might make decisions about

- your money,
- where you live, or
- what services you will receive, and
- may consent to medical treatment.

If you are able to make a choice about something, your guardian should let you.



Your guardian helps to protect your rights

Your guardian should participate in the planning meetings with you and your team. They have the right to look at



your records and to talk with staff about you. They can file complaints for you.

Your guardian has to tell the court every year about how you are doing. For the guardian of the estate, this is called an annual accounting. For the guardian of the person, it is known as an annual report. The law requires all guardians to complete an annual accounting or report to the court, no matter how long they have been a guardian. When your guardian files the annual accounting or report, they are given letters from the court to show the guardianship is current. They need to share this letter with your staff. Your guardian helps protect your rights.

Your responsibilities

Along with rights come certain responsibilities. Responsibilities are your duties that you need to try to do, if you are able. You may not be able to do all these things by yourself, and you can ask for help.

- 1 You should not hurt others.
- 2 You should follow the rules and regulations of your program.
- 3 You should tell staff what you need.
- 4 You should speak up at your planning meeting and tell your team about your goals and dreams.
- 5 You should try your best to follow the treatment plan developed by you, your guardian, and those who work with you. If you do not like your plan, you can ask that the plan be changed.

- 6 You should be on time.
- 7 You should help take care of the home where you live.
- 8 You should take care of your things and not bother other people's things.
- 9 If you leave, you should tell staff where you will be.
- 10 You may have other responsibilities, and staff can help you learn what they are.

Special meetings

Guardianship hearing

If you have a guardian, the guardian had to go to court to tell the judge why he or she wanted to be your guardian to help you make decisions. This process in the court is known as due process. If your guardian is given permission by the court to make certain decisions, then your staff will need your guardian's permission before restricting any of your rights in those areas. You have the right to know about your guardian's decisions.

Planning meeting

At least once per year, you, your guardian if you have one, your QMRP, and the staff that work closely with you will meet to determine your individual program plan (IPP). This plan will determine what services your ICF-MR provider will give you over the next year. If you want to make changes in your plan, then you must have a meeting to discuss the changes. You can also invite a friend or advocate to the meeting.





Specially Constituted Committee

The Specially Constituted Committee is made up of staff, parents, consumers, and others who review, approve, and monitor behavior therapy programs that may affect your rights. They do this even if you or your guardian agree to the program. When you cannot give consent to the program, they review it so it can go to the Surrogate Consent Committee for approval.

How to make a complaint

If you think that anyone or anything is going against your rights, you should call one of the following people or groups and tell them about anyone or anything that does not respect your rights. Ask staff to help you do this if you need help.

Problems with your ICF-MR Provider

You can talk to your QMRP or the program director where you get services.

You can also talk to DADS Consumer Rights and Services about any complaints that you have about your services.



You can call DADS Consumer Rights and Services at 1-800-458-9858

State offices

If you or your family members want to report complaints or violations to your rights, you should call Austin, Texas:

**Consumer Rights and Services
Texas Department of Aging
and Disability Services 1-800-458-9858**

If you think staff have abused you, neglected you, or taken advantage of you, you should also call and report this to DADS Consumer Rights and Services.

If you want to complain about public school, you should call:

Texas Education Agency (TEA) 1-800-252-9668

Other places you can call if you have complaints or need help:

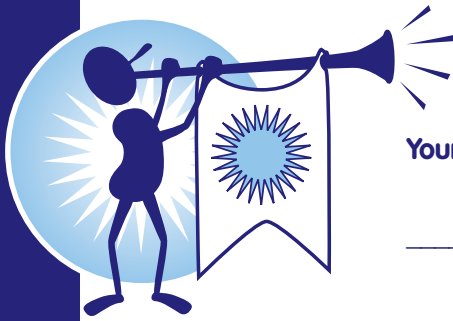
Advocacy, Inc. 1-800-252-9108

**Parent Association for the
Retarded of Texas, Inc. (PART) (512) 453-7145**

If you are hearing impaired and need TDD to make a phone call, you can get help from:

**Relay Texas (voice) 1-800-735-2988
(TDD) 1-800-735-2989**





Your QMRP is:

Your QMRP's telephone number is:

Notes:

Texas Department of Aging and Disability Services

DADS toll-free Consumer Rights and Services number:

1-800-458-9858

Attention Medicaid Recipients

Under the Medicaid Estate Recovery Program, the state may file a claim against the estate of a deceased Medicaid recipient, age 55 and older, who applied for certain long-term care services on or after March 1, 2005.

For more information call
1-800-458-9858

