



State of Vermont
Agency of Human Services
280 State Drive, Center Building
Waterbury, VT 05671-1000

Global Commitment Register

February 28, 2023

GCR 23-024
FINAL

Health Care Administrative Rule Update: Disability Services – Developmental Disabilities

Policy Summary:

The Agency of Human Services (AHS) has filed the following adopted rule with the Office of the Secretary of State (SOS) and the Legislative Committee on Administrative Rules (LCAR):

- HCAR 7.100 – Disability Services – Developmental Disabilities

The rule is effective as of March 1, 2023, and will supersede HCAR 7.100 that was last adopted and effective October 1, 2017. The *Disability Services – Developmental Disabilities* rule fulfills the requirements of the Developmental Disabilities Act of 1996. The adopted rule aligns with federal and state law and guidance, provides clarification, corrects information, improves clarity, and makes technical corrections. Substantive revisions include:

- Streamlining the Rule by removing categories of content, which, as authorized by 2022 Acts and Resolves No. 186, are no longer required to be adopted by rule, and including them exclusively in the FY 2023-2025 *State System of Care Plan for Developmental Disabilities Services*. Those categories that must no longer be adopted through rulemaking include:
 - (1) priorities for continuation of existing programs or development of new programs;
 - (2) criteria for receiving services or funding;
 - (3) type of services provided; and
 - (4) a process for evaluating and assessing the success of programs.
- Codifying the Vermont Supreme Court’s ruling in *In re: R.R.*, 2019 VT 31, in which the Court held that the Standard Error of Measurement (SEM) for IQ tests must be considered when determining eligibility for services. The language now includes IQ scores of 75 or below when accounting for the SEM.
- Striking the outdated grievances, appeals, and fair hearings provisions in the Rule and inserting the requirements of HCAR 8.100, which result in the Rule’s alignment with long-standing practice across all Medicaid programs.

Effective Date:

March 1, 2023

Authority/Legal Basis:

18 V.S.A. § 8726

Developmental Disabilities Act of 1996

[Global Commitment to Health Waiver](#)

Population Affected:

Medicaid beneficiaries receiving developmental disabilities services.

Fiscal Impact:

No fiscal impact.

Public Comment Period:

The public comment period for this Rule closed on October 28, 2022. Virtual public hearings were held on October 11, and October 19, 2022. [Comments were received and can be viewed here](#). The [responsiveness summary](#) can be viewed here.

Additional Information:

To get more information about the [rulemaking process](#), see the website of the Office of the Secretary of State.

The [Health Care Administrative Rules](#) that are currently in effect are available here.

To be added to the GCR email list, send an email to AHS.MedicaidPolicy@vermont.gov.