



## **Policy and Procedure Concerning Dispute Resolution 8.605.2**

### **Purpose**

The purpose of this policy is to establish and communicate to each person receiving services the avenues available for resolving disputes with regard to the issues that are specified in the State of Colorado's Division for Developmental and Intellectual Disabilities rules and regulations as disputable.

For the purpose of this policy, the term "person receiving services" includes the individual applicant for services, a family member, and/or an authorized representative of the individual.

### **Policy**

It is ABLE policy to assure that applicants for services, as well as persons receiving services through ABLE, have a means of resolving disputes at any time. The following four items are areas that may be disputed:

- The applicant is not eligible for services or supports.
- The individual is no longer eligible for services or supports.
- Services or supports are to be terminated, or
- Services set forth in the Service Plan (SP) are to be changed, reduced, or denied.

Issues other than those listed above will be addressed via ABLE Policy Concerning Complaints and Conflict Resolution.

If there is intent to make changes to a person's plan as indicated above, ABLE will provide the person receiving services with a formal notice of intent.

Notice means written notification that is hand-delivered, sent via encrypted email or by first-class mail that contains at least all of the following:

- Contact information listing ABLE's President to which the protest may be filed.
- The proposed action, reason(s) for the action, the effective date of the action, and the specific law, regulation, or agency policy supporting the action.
- A copy of the dispute resolution procedure along with a copy of the consumer's rights.
- Advocacy assistance information for conflicts involving individuals.
- A written document stating that services will not be terminated during the appeal process and an explanation of how ABLE will provide services during the resolution period for disputes involving individuals.

It is the policy of this organization to internally assess each disputable issue and attempt to reach a resolution internally in a fair and reasonable manner. Each disputable issue will be addressed within established time frames, and all involved parties will be informed of the status of the registered dispute. All documentation described herein will become a permanent part of the involved individual's personal record. The use of this procedure shall not prejudice the future provision of appropriate services or supports to the person in need of and/or receiving services.

Should an individual feel a disputable issue has not been resolved through informal discussion and that the issue is critical to his/her well-being, the person receiving services may follow the procedures outlined in this policy to register a formal dispute. The individual will not be coerced, intimidated, threatened, or retaliated against because they have exercised their right to participate in the dispute resolution process.

This policy and procedure shall be provided orally and in writing to all persons receiving services or applicants for services and parents of a minor, guardian, and/or authorized representative at the time of application, at the time the annual Service Plan is developed, any time changes in the plan are produced, and upon request. The signature page of this policy and procedure shall be kept in each individual's file verifying its receipt. The person receiving services shall be instructed and assisted with the dispute process, if needed. Assistance may be obtained through (but not limited to) Legal Aid Foundation, The Legal Center, or the ARC.

Legal Aid Foundation of Colorado (303) 863-9544

Disability Law Colorado (800) 288-1376

The Arc of Adams County (303) 428-0310

The Arc of Mesa County (970) 245-5775

Mediation Project (888) 815-6684

Colorado Department of Health Care Policy & Financing (303) 866-2993

## Procedure

### Dispute Resolution Process

1. If ABLE determines that an individual or applicant is not eligible for services, or if services and supports will be terminated, or if services set forth in the SP are to be changed, reduced, or denied, notice of this change shall be sent to the individual, parents of a minor, guardian, and/or authorized representative at least fifteen (15) working days prior to the date that the action becomes effective.
2. Throughout the dispute resolution procedure, all written communication shall be in English. Interpretation in native languages other than English, and through such modes of communication as may be necessary, shall be made available upon request.
3. All information pertaining to the dispute shall be considered confidential. It shall be shared only to the extent necessary with the parties involved.
4. Should an individual have a disputable issue, he/she will be provided the opportunity to discuss it with the appropriate Director. This discussion will be documented in the individual's file, including the name of the person registering the opinion, the nature of the opinion, and the action or discussions directed at resolving the dispute.
5. Mediation could be considered as a means to informal negotiation if both parties voluntarily agree to the process.
6. After opportunities for informal negotiation of the dispute have been attempted, without resolution, the objecting party may request that the President review the dispute and attempt to resolve the matter. If parties cannot reach resolution, the objecting party may request that an impartial decision-maker be appointed to review the case. The impartial decision-maker can be the Senior Director taking the action or their designee. The impartial decision-maker shall not be a person directly involved in the specific decision at issue.
7. After the impartial decision-maker has been appointed, a meeting will be scheduled to review the case. All parties will be given ten (10) days' written notice of the scheduled meeting, unless waived by the objecting party.
8. The objecting party will be given the opportunity to present information and evidence in support of their position to the impartial decision-maker. They are allowed the opportunity to respond to or question the opposing position.
9. Either party may be represented by counsel, an authorized representative or another individual if the objecting party desires.
10. The proceedings will be recorded by an electronic device or reporter.
11. The impartial decision-maker will provide a written response to the dispute within (15) working days of the meeting, stating the reasons for the decision.

If either party is still dissatisfied with the decision, a request can be made to the President of ABLE or a designee. The dispute resolution procedure shall be as follows:

1. A request to the President or designee to review the outcome of the dispute resolution process shall be submitted to the ABLE President within 15 working days from which the written decision was postmarked.
2. The request for review shall also contain a statement of the matters in dispute and all information or evidence which is deemed relevant to a thorough review of the matter. The opposing party will be given 15 working days to respond.
3. The President or designee shall have the right to additional information and may request oral argument or a hearing if deemed necessary by the President or designee to render a decision.
4. The President or designee shall provide a de novo review of the dispute and shall render a decision within 10 working days of the submission of all relevant information. This decision will constitute the final action on the dispute.

No person receiving services may be terminated from services or supports during the dispute resolution process unless it's been determined an emergency situation, as meeting the criteria set forth in section 8.605.4 exists. An emergency situation could include mistreatment, neglect, abuse, or exploitation or other situations that are likely to happen again and could result in harm to you or someone else.