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**TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES**

**Written Response to Comments**

LSA Document #05-119

Under [IC 12-10.5-2-3\(c\)](#), the following agency responses are being submitted for publication:

(1) Comment: Several commenters suggested that an exemption be included in the rule for consumer directed or self-directed care programs.

Response: Section 2-5 was added to the article in response to this. However, a complete exemption broader than this could not be given because to do so would cause the rule to be out of compliance with CMS requirements.

(2) Comment: A comment stated that the rule should have provisions that it does not apply to adult family care/adult foster care because confusion and conflict could result between this rule and rules specific to those programs.

Response: Rules specific to those programs have not yet been promulgated, so it would be premature to alter this rule. As later rules are written, this issue will be taken into consideration. Therefore, no change was made.

(3) Comment: Commenters suggested that the rule should reference SEA 493 more consistently, including added [IC 12-10-11.5](#) to the affected statutes line in certain sections in particular.

Response: [IC 12-10-11.5](#) was added to the "Affected" line throughout the rule.

(4) Comment: A commenter suggested adding language to section 6-1, including "by DDARS or an area agency on aging" to §1(a)(1)(A) and "waiver or any home and community based service listed under Section 19 of this rule" to §1(a)(1)(B).

Response: The phrase "service or a HCBS listed in [460 IAC 1.2-4-18](#)" was added to §1(a)(1) in response to the second part of the suggestion. No change was made based on the first part because this would inappropriately give AAAs authority to create standards, which is the job of the state.

(5) Comment: A commenter suggested revising the rule to ensure involvement and communication with AAAs with some specific recommendations.

Response: It is felt that the recommendations 1) would give AAAs inappropriate authority or responsibility for state duties, 2) would be too limiting for the situations mentioned, and 3) were already addressed by other provisions of the rule. Therefore, no changes were made.

(6) Comment: A commenter recommended that "other services consistent with the purposes of the waiver necessary to prevent institutionalization" be added at the end of section 5-1(a).

Response: It is felt that the section is sufficient as written. Therefore, no change was made.

(7) Comment: A commenter recommended the phrase "program consistent with the goal of preventing institutionalization" be added at the end of section 5-1(e).

Response: This is already inherent in the CHOICE program and is thus unnecessary. Therefore, no change was made.

(8) Comment: A commenter recommended that the phrase "or seek changes in their care plan" be added to the end of section 8-1(a).

Response: This change was made.

(9) Comment: A commenter suggested adding "Every six months" to the beginning of section 9-5(b)(4) referring to assessments of an individual's services.

Response: It is felt that this would be too much of a burden for a provider given that a client's care plan is reviewed every 90 days, and that an annual assessment is sufficient. No change was made.

(10) Comment: A commenter suggested adding the phrase "the independence and" between "with respect for" and "the unique needs and values" in section 21-1(1).

Response: This change was made.

(11) Comment: A commenter stated that the rule as written improperly took a medical model only approach to home and community based services.

Response: In response to this, the phrase "service or a home and community based service listed in [460 IAC 1.2-4-18](#)" was added to section 6-1(a)(1).

(12) Comment: A commenter stated that the rule did not address other services that should have been included, including assisted living and adult foster care.

Response: These services will be addressed with separate rules. No change was made.

(13) Comment: A commenter fails to appropriately reference the statutory role of AAAs in the local administration of home and community based services.

Response: AAAs' role is more clearly and appropriately defined by their contracts with the state. Therefore, no change was made.

(14) Comment: A commenter suggested in reference to the requirement for limited criminal history checks in section 6-2(a)(3) that the state ensure that audit agencies understand that requesting limited criminal history checks for current employees is not permitted.

Response: This goes to the subsequent application rather than the provisions of the rule itself. Therefore, no change to the rule was made.

*Posted: 09/13/2006 by Legislative Services Agency*  
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