DDSD PROCESS FOR OUTLIER REVIEWS Effective 2/15/10

DD Waiver Service Providers and Regional Offices should implement the following processes for requests and approvals of Outlier Services:

1. During the annual IDT meeting, teams requesting Outlier supports for individuals with applicable health and or behavioral issues must discuss the need for Outlier supports, the type of Outlier supports needed (medical or behavioral), and whether the Outlier request is an on-going or initial request. IDT meeting minutes documenting team agreement to the service must be supplied by the Provider. This discussion must be documented with IDT meeting minutes indicating team consensus to Outlier Services.
2. Teams must clearly identify the following during the meeting:
    a. Why Outlier services are needed.
    b. Accessibility/Availability of natural/generic supports that could be used in lieu of Outlier Supports (e.g., home health, nursing through medicaid card?).
    c. The level of staff support and duties of said supports needed to reasonably assure the individuals health and safety.
    d. The hours/times in which the enhanced staff support will be provided, including the setting in which Outlier is needed and the time of day, day(s) of the week, or circumstances in which the Outlier staff must be available to the individual.
3. Teams must clearly outline each provider's responsibility for putting together the Outlier packet during this meeting. This will include:
    a. who will be completing forms,
    b. who will be obtaining any medical or psychological information,
    c. who will be developing/updating the health care plan and/or behavioral support plan,
    d. dates by which appropriate forms and documentation will be submitted to the provider for inclusion in the Outlier packet. Teams need to allow for mailing time, etc., when planning dates. Since most meetings are occuring 6-8 weeks prior to the expiration of the ISP, Outlier packets should be submitted to the Regional Office in a timely fashion.
4. The Provider must take meeting minutes annually regarding the discussions identifed in item #1, #2, and #3. For 6 month renewals, IDT meeting minutes documenting team agreement and discussion of #1, # 2 and #3 must be dated no more than 90 days prior to effective date of service.
5. The team must be in consensus on the need and request for Outlier Services and indicate this consensus in writing as part of the meeting minutes and by signing the signature page for the meeting minutes on the Outlier discussion.
6. The requesting Provider(s) will be responsible for compiling the Outlier Packet and for tracking deadlines for documentation, including whether or not documentation is submitted within the time frames agreed upon at the meeting.
    a. If documentation is not submitted by the time agreed upon, the Requesting Provider must send a <u>written</u> notice to the appropriate party(s) requesting information by a specific date.
    b. If documentation is not received by the date listed on the written notice, the Requesting Provider <u>must</u> send a second written request to both appropriate party(s) and the Agency Director. For second request, documents must be received within 14 calendar days.
    c. If documentation is not received within 14 calendar days of the date of the second written notice, the Requesting Provider <u>must</u> submit a written request to the respective regional office utilizing the "Regional Office Request for Intervention" (RORI) form to enlist DDSD

assistance in obtaining necessary documentation. The provider **MUST** demonstrate prior attempts to obtain this documentation prior to requesting Regional Office Assistance.

7. **For initial and on-going Outlier requests** – the Requesting Provider must submit a complete Outlier Packet to the respective **Regional Office** for review at least 30 days prior to the effective date of services UNLESS emergency approval of services has been authorized by DDSD, in which case providers must comply with previously established timeframes for this process. The contents of a complete Outlier Packet are described in item #8 below.

8. A complete Behavioral or High Medical Necessity Outler Packet shall consist of the following documentation:

    a. Completed Outlier Prior Authorization Form (dated 02/15/10).

    b. For Annual, Ongoing or Initial reviews, the current ISP documenting the agreement by the IDT members of the need for Outlier **OR** in lieu of the ISP, a copy of the IDT Meeting Minutes and Participant Signature Page documenting team consensus on need for Outlier Services.

    c. Staff Time Report Form A (Residential) for Residential Outlier requests.

    d. Staff Time Report Form B (Adult Hab) for Adult Hab Outlier requests.

    e. Residential Staff Time Calculation Worksheet.

    f. Adult Hab Staff Time Calculation Worksheet.

    g. Completed MAD046.

    h. As Necessary, Copy of Appropriate Supported Living MAD 046 as indicated below:

        i. For Renewal Request, Copy of last approved Supported Living Awake MAD 046 (for previous six month period).

        ii. For Initial Request, Copy of current approved Supported Living Awake MAD 046 (SLAW MAD 046 must be submitted and approved at NMMUR prior to submission of Outlier Request to DDSD. If approvable, DDSD will honor the effective date of the SLAW as the effective date of the Outlier Service Request.).

    i. In addition to the above-mentioned documentation necessary, the following documentation for Behavioral and High Medical Necessity Outlier requests must be included in the packet as follows:

        i. Behavioral Outlier

            1. A written and signed current Positive Behavioral Supports Plan (PBSP) which identifies the specific behaviors for which Outlier services are needed **and** includes duties and responsibilities of the enhanced staff supports **and** strategies and timelines to reduce the need for enahnced staffing developed by the Behavioral Support Consultant in conjunction with the IDT (fade out plan). Additionally, the PBSP must include the recommended staffing pattern and the need for enhanced staffing which is both reasonable and agrees with the Provider Agency recommendations for staff pattern. The Positive Behavioral Supports Plan must be dated within one year of the effective date of the request.

            2. A signed letter from the individual's **neurologist** OR **psychiatrist** OR **psychologist** . The letter must be dated no more than 90 days prior to the effective date of the service. The letter must designate the diagnosis and/or conditions for which the Outlier supports are needed, the level of support and interventions needed to reasonably assure the health and safety of the individual, long-term prognosis for recovery, and a "best guess" as to what may occur in the absence of such supports. This letter must clinically support the need for behavioral Outlier supports.

3. A signed letter from the provider agency summarizing alternative interventions implemented, results of those interventions, and justification for why the individual's condition and needs warrant the need for additional or specialized staff. The letter must also include a summary of successful or unsuccessful attempts to fade out the enhanced staff supports. If there is no fade out plan for Outlier services, this letter must include a description of how attempts to fade supports in the previous two (2) years has resulted in a return of the target behavior. (Attempts to access generic supports must be included here.) The Provider Agency should also offer a reasonable staff pattern which is in agreement with the pattern described in the PBSP. The letter must be dated no more than 90 days prior to the effective date of the service.
4. The previous 6 months of requesting Agency Quarterly Reports summarizing progress towards outcomes and significant incidents that may impact the individual's progress as well as indicating the number of instances in which staff had to provide behavioral interventions, up to and including emergency physical restraint,for the behavioral condition(s) upon which the Outlier is based. These reports must justify the need for additional or specialized staff support.
5. The previous 6 months of Behavioral Consultant Quarterly Reports summarizing progress towards outcomes and significant incidents that may impact the individual's progress and the results of Outlier supports, any needed changes to specific duties of Outlier support staff, and readiness of the individual to fade such supports.
6. Fade out plan (Must be included in both Positive Behavior Support Plan or Provider Agency Reports) which includes a timeline and targeted actions which will result in a reduced need for enhanced supports OR Documented Evidence that fading supports in the previous two years has led to a return of the targetted behaviors.

ii. High Medical Necessity Outlier

1. A written and signed health care plan developed within the last year by the provider agency nurse which includes specific staff functions required to meet the health needs of the individual. Health care plan must be reviewed at least quarterly to indicate ongoing need.
2. A signed letter from the individual's primary care physician. The letter must be dated no more than 90 days prior to the effective date of service. The letter must designate the diagnosis and/or medical conditions for which the Outlier supports are needed, the level of support and interventions needed to reasonably assure the health and safety of the individual, long-term prognosis for recovery, and a "best guess" as to what may occur in the absence of such supports. If there is no fade out plan for Outlier services, the physician's letter must also include why the specific medical condition and care needs of the individual will not allow for fading of supports. This letter must clinically justify the need for Outlier supports.
3. A signed letter from the provider agency summarizing alternative interventions implemented, results of those interventions, and justification for why the individual's condition and needs warrant the need for additional or specialized staff. (Attempts to access generic supports must be included here.) The letter must also include a summary of successful or unsuccessful attempts to fade out the enhanced staff

supports OR a justification as to why a fading trial would put the individual. The Provider agency must also include a staff pattern which will reasonably meet the health and safety needs of the individual described in the Physician's letter. The letter must be dated no more than 90 days prior to the effective date of the service.

4. The previous 6 months of requesting Agency Quarterly Reports summarizing progress towards outcomes and significant incidents that may impact the individual's progress as well as indicating the number of instances in which staff had to provide **direct** intervention for the medical condition(s) upon which the Outlier is based.
5. The previous six months of Nursing Monthly Notes/Reports summarizing all visits and contacts including phone contacts related to the individual. Monthly notes must reflect the nurses actions and activities during visit(s), including but not limited to the nursing assessment of the individual and other pertinant physical findings. Monthly notes should include a description of individual's current physical/ emotional status, changes or issues with current orders, status of laboratory or diagnostic tests, specialist evaluations, medications, treatments, or equipment. Monthly Notes should also summarize the skilled services that are needed/provided, the individuals response to those services, changes in the individual's health status, any needed changes to specific duties of Outlier support staff.
6. Fade out plan (may be included in the Provider Agency Reports) which includes a timeline and targeted actions which will result in a reduced need for enhanced supports OR the Physician's letter must document why fading supports is not possible due to the specific medical condition and care needs of the individual.

9. For High MedicalNecessity and Behavioral Outlier, a provider may request up to 6 months of Outlier service not to exceed 170 units for Supported Living Outlier or 2556 units of Adult Habilitaiton Outlier. DDSD staff who review the Outlier Request may authorize fewer units or a reduced approval period based on information included in the authorization packet.
10. DDSD shall review and determine eligibility for Outlier services for all initial and renewal requests (including annual and 6 month reviews). DDSD shall review the completed Outlier packet, utilizing the DDSD Outlier Review Tool, effective 2/15/10. A determination will be issued using the Prior Authoirzation Form within 10 working days of the receipt of a complete Outlier Packet.
    a. The Prior Authoirzation Form may be issued for the following reasons:
        i. The request is approved.
        ii. The request is clinically denied.
        iii. The request is technically denied as does not contain all necessary documents.
    b. If the Prior Authoirzation Form is approved, the Regional Office Staff authorizing the service MUST:
        i. Sign both the Prior Authorization and MAD 046 line item for Outlier Services.
        ii. Forward the Prior Authorization Form and MAD 046 to NMMUR for data entry.
        iii. Forward the Prior Authorization Form and MAD 046 to both the Case Manager and Requesting Provider.
    c. If the Prior Authoirzation Form is not approved, the Regional Office Staff issuing the denial MUST send a copy of the Prior Authoirzation Form to both the REQUESTING PROVIDER and THE INDIVIDUAL. Ensure that the Fair Hearing Rights (second page of authorization form) are included in the notice to the INDIVIDUAL.

11. Circumstances under which the request for either behavioral or medical Outlier services are denied shall be as follows:

    a. Clinical Denial: Documentation submitted does not **clinically** justify the Outlier request per DD Wavier standards **OR** the Enhanced Staffing hours do NOT meet the minimum of 360 enhance hours for a residential setting or the minimum of 84 enhanced hours for the Day Hab setting.

    b. Technical Denial: Required documentation was not submitted as requested by DDSD within the timeframes established.

12. In the event an Outlier service is technically denied by DDSD:

    a. If the PA request is INCOMPLETE, the provider will be requested in writing to submit the missing information within thirty (30) calendar days from the date of the written request.

    b. If the information is not received within thirty (30) calendar days the request will have to be re-submitted with a new requested start date; retro-active approval requests will not be approved.

    c. A provider may contest a Technical Denial by DDSD if:

        1) All the required PA information was submitted with the original PA request or,

        2) The missing information was received by DDSD within thirty (30) days from the date of the original written request.

        3) The contestation to a Technical Denial must be received by DDSD within fifteen (15) calendar days from the date that the Technical Denial letter was issued. The contestation must include documentation that supports their position that the above requirements were met.

13. In the event an Outlier Service is **clinically** denied by DDSD:

    a. Provider has 10 **calendar** days from the date on the denial letter to request a re-review. DDSD will complete the re-review within 15 calendar days of request. This Review will be completed by the Regional Office Manager.

    b. Provider has 30 **calendar** days from the date on the denial of a re-review to request a re-consideration. This Review will be conducbed by DDSD Central Office Staff.

14. In the event an Outlier service is **clinically** denied **following** the reconsideration process or technically denied by DDSD, the provider must submit a complete new packet for review with a new effective date for services to begin.

15. NMMUR will **NOT** process any budgets for data entry of Outlier services for on-going Outlier requests without BOTH the Prior Authorization Form and the MAD 046 signed by DDSD Regional Office. If both the Outlier Authorization Form and a copy of the signed MAD046 by DDSD **<u>is not</u>** submitted, NMMUR will assume that the request has not been approved and will not process it for data entry. If both documents are not submitted, NMMUR will send a RFI requesting the provider to seek DDSD prior approval for the services.

16. NMMUR will not process any budgets for data entry of Outlier services until the Core budget for the ISP has been submitted by the case manager.

17. If a service is clinically or technically denied, DDSD will forward the following notice of Right to a Fair Hearing to the individual:

You can ask for a hearing if you do not agree with what we have told you in this Notice of Denial. You have 90 days to ask for a hearing. You can ask for a hearing by calling or writing to:

New Mexico Human Services Department
Administrative Hearings Bureau
P.O. Box 2348
Santa Fe, New Mexico 87504-23248
Telephone 505-827-8164, or toll-free 1-800-432-6217, option 6
Fax 505-827-8157

At the hearing, you will have the right to present evidence and witnesses. You have the right to see your file, and the documents on which the decision was based. You also have the right to have a friend, family member, spokesperson, or attorney represent you. Hearings are usually held by telephone, but may be at the ISD field office nearest you. The Administrative Hearings Bureau will advise you about the date, time and place of your hearing.