



## Due Process

<u>Number</u>	<u>Question</u>	<u>Response</u>
<b><u>Due Process Review Committee Meeting</u></b>		
1	Can you define what/ who constitutes a DPR Committee?	The Division has a draft procedure for <i>Establishing a Due Process Review Committee</i> .
2	How will providers/ SCs meet audit requirements for documenting the notification to the person (and guardian) of the DPR meeting schedule, since the meeting is not a standard date/time per month?	The DPRC Coordinator will notify the individual, guardian, Support Coordinator, and service providers of the date and time of the scheduled DPRC meeting.
3	If an individual/guardian does not have email, how are they being contacted?	The DPRC Coordinator will contact the individual and/or guardian via the contact information provided on the referral form.
4	Do individuals with guardians get to choose on their own to be present for the meeting? Even if the guardian preferred, they do not.	9 CSR 45-5.010 (4) (E) 14. <i>Individuals are supported in planning and participating in discussions regarding their lives.</i>
5	Who must be at the meeting?	There should be documentation that the individual was supported in attending Due Process Review meeting as applicable at times and locations accessible to the individual. This would include the guardian if applicable. 9 CSR 45-5.010 (4) (E) 14.
6	How does a team know who is the best person to present the referral?	The team will work together to determine who the point of contact (person making the referral) will be for the referral. The person submitting the referral will provide contact information for the individual, guardian (if applicable), Support Coordinator, and the individual's Waiver service providers and the DPRC Coordinator will

		contact the applicable team members to notify them of the date and time of the scheduled DPRC meeting.
<b>7</b>	Does this mean agencies are no longer doing their own due process? Or we must do both?	A service provider may still have their own review process; however, to meet the requirements of a due process review, all restrictions should be reviewed at least annually by the Division's Due Process Review Committee (currently being operated by The Columbus Organization).
<b>8</b>	For agencies that currently run their own DPC, and have been approved to, do they continue to do so, or do they need to shift to Columbus?	All due process referrals will be reviewed by the Division's Due Process Review Committee (currently, The Columbus Organization).
<b><u>Emergency Restrictions</u></b>		
<b>9</b>	Is that 72 business hours or 72 hours in general?	Upon receipt of an emergency referral, the DPRC Coordinator will schedule a virtual Ad-Hoc Review Panel meeting. The meeting will be held within <b>72 calendar hours</b> of the submitted referral.
<b>10</b>	You must send a second "real" referral after submitting an emergency one?	Yes, a complete referral should be submitted to the DPRC within 30 calendar days
<b>11</b>	Emergency meeting occurs in 72 hours which means when filling this out the SC/team would have to write the full restriction out and submit prior to the 72 hours?	See 12.8.1c Emergent Due Process Reviews – 4. Procedure E) a.-h.: The Ad-Hoc Review Panel will review the following: a. Justification, purpose, and rationale for the use of the restrictive intervention. b. Plan for immediate action to address the risk, for example a Safety Crisis Plan and/or Comprehensive Support Planning Tool. c. Conditions under which the restrictive intervention will be applied. d. Informed Consent of the individual or guardian. e. Assurance that the intervention will not cause the person harm.

		<p>f. Assurance that the intervention is not a prohibited practice.</p> <p>g. Date of PCSP (Person Centered Service Plan) meeting scheduled to review the emergency restriction and initiate plans for reducing and eliminating the restriction.</p> <p>h. Timelines and person(s) responsible for submission of complete DPRC referral.</p> <p>i. A complete referral should be submitted to the DPRC within 30 calendar days via the regular referral process (Non-emergency).</p>
<b>12</b>	In emergency situations, can a provider implement emergency interventions prior to the 72-hour review?	Yes, when a situation rises to the level of needing emergency interventions, the waiver service provider will take immediate action to keep the individual safe. Once the individual is safe, the waiver service provider will immediately notify the individual's guardian (if applicable) and support coordinator of the emergency intervention
<b>13</b>	Would anyone with an already imposed rights restriction require Emergency Review?	No, only restriction(s) imposed due to emergency circumstances where there is an <b>imminent</b> threat of harm to the individual or others need an emergency review.
<b><u>Person Centered Service Plan (PCSP)</u></b>		
<b>14</b>	If a request for DPR is now submitted through the "DPR Referral System" and it's not what is currently written in the individuals ISP, how does this work? Is the referral system what matters from an audit point of view?	Information included in the DPR referral should be included in the ISP. Whether that is before DPR review (if developed by the entire ISP team) or following the DPR Review as efficiently as possible per the ISP Guidelines.
<b>15</b>	How will the Support Coordinator, who is responsible for development of the ISP, receive the DPR referral by an individual, guardian, waiver service provider to encompass within the ISP?	The SC will be notified of the due process referral by the DPRC Coordinator and Individual Rights Consultation process to create an amendment to the plan in accordance with the ISP Guideline of 30 days.
<b>16</b>	Will all this info still be needed in the body of the ISP, or will this referral form be included as an attachment to the plan?	The PCSP (ISP), updated and maintained by the SC, includes the due process components and supporting information. The SC should be involved in the discussion

		to incorporate due process components and documentation into the plan. 9 CSR 45-5.010 (4) (E) 8.
<b>17</b>	What happens when an individual wants to keep the limitations in place due to the improvements in their lives and they want to continue to make improvements in their lives? Especially when the limitation keeps them safe as well as their housemates and staff.	Should be clearly documented in the ISP that it is their choice and preference. Individuals should also be able to communicate this when asked.
<b>18</b>	Does this form replace addendums? Or do we still complete the addendum and just copy and paste the info into this form?	No, addendums will still be required per the ISP guideline. The system does allow the person making the referral to copy and paste directly into the on-line referral form.
<b>19</b>	What is the requirement in this system when someone meets the criteria for restoration and the restriction ends? Does an entry get made to reflect that, or does an addendum need to be completed to end the restriction?	Per the ISP Guide: Any new service / support must be justified and noted in the ISP; therefore, an update to the ISP is necessary to reflect the changes within 30 days of the change.
<b>20</b>	Is there going to be a recommended timeline in which referrals are to be submitted for new ISP plan year? How many months or weeks should the referral be made before the implementation of the plan year (let's say the IHP date is 10/01/2024).	An annual individual support planning meeting shall be held within 90 days prior to the date of expiration so that the renewed plan starts on the same date of the new year. The DPRC will review due process referrals within 30 calendar days from the date of receipt of all needed information.
<b>21</b>	Shouldn't the restriction be reviewed by DPRC prior to the ISP being completed so it reflects the information accurately?	POS Contract 3.10.4: A individual's rights as outlined in Section One (1) of 9 CSR 45.3.030 may not be restricted, including, but not limited to, by a contractor of targeted case management or home and community based services, without due process. Due process under this provision includes the right to be notified and heard on the limitation or restriction, the right to be assisted through external advocacy if an individual disagrees with the limitation or restriction, and the right to be informed of available options to restore the individual's rights.

### Due Process Review Committee Referral Form

<b>22</b>	This referral process seems like it will take a lot more time to complete. Would it be possible for us to upload the ISP/Addendum in place of transferring the information for each component of each restriction within this referral document?	All required components are expected to be addressed within the referral form. To make it as user friendly as possible, the information can be copied and pasted directly from the ISP.
<b>23</b>	Can you explain more of how the DPR Referral system and Provider Portal will work? Is it a method to communicate to and from the Division?	When a referral for due process is submitted through the DPR Referral system, the DPRC Coordinator will receive notification of the referral. When a referral for Individual Rights Consultation is submitted through the Provider Portal (REDCap), the QPS Lead will receive notification of the referral.
<b>24</b>	Who can submit a due process referral?	The person, any member of the Person Centered Service Plan (PCSP) team, Division staff, or the person's advocate can submit a referral for due process through the Division's Due Process Referral system.
<b>25</b>	If someone has multiple restrictions, will we have to fill out a separate form for each restriction?	Yes, each restriction must have a Section II of the referral form completed.
<b>26</b>	When selecting Other Services that the individual receives, are we only selecting services that are DMH funded? Or would we select speech therapy if it is being provided through Medicaid?	Select all related services that the individual receives regardless of funding source.
<b>27</b>	Will the diagnoses be what's listed on the PO's?	List <b>all</b> diagnoses that the team is aware of. This could be listed on the Physician Orders, Medical, Nursing, Therapy Assessments, ISP, and CIMOR.
<b>28</b>	Will everything be "new" in this new system until the 2nd time we submit it?	No, "new" restrictions are those restrictions that have not been implemented or have not had a previous DPRC review. "Existing" restrictions are those that are not new to the individual or has had a prior DPRC review.

29	This form is to be used for OLD and New due process?	Yes, effective 9/24/24, all restrictions will be referred to the DPRC using the on-line referral form. <a href="#">DPRC Referral Form</a>
30	Are the components and bullet points available to review without having to go through an actual referral?	As noted below, you can practice in the test environment. <a href="#">Due Process Begin Referral - DD Due Process Referral (mo.gov)</a>
31	Are we able to print the referral form?	Yes, before closing out of the system, you may use the Print button located at the top right hand corner of the form to print the document for your records.
32	Can we use the Test environment to practice before submitting a due process referral?	Yes, <a href="#">Due Process Begin Referral - DD Due Process Referral (mo.gov)</a>
<b><u>Due Process Review Committee Exceptions</u></b>		
33	What if family home staff needs to implement a rights restriction? Can that then go through Due Process?	Restrictions imposed in the family home by natural supports or family members are not required to go through due process. Staff may provide a Division funded service to the individual but must <b>not</b> engage in a practice or utilize any device that imposes a restriction during the delivery of services. If a restriction needs to be implemented by Division funded staff, it must go through due process.
34	What about Self-Directed Personal Assistance, does this follow the exemption?	Staff may provide a Division funded service to the individual but must <b>not</b> engage in a practice or utilize any device that imposes a restriction during the delivery of services. If a restriction needs to be implemented by Division funded staff, it must go through due process.
35	It says DMH service in the home, would that also include a restriction in the community that say the mom wants enforced, like not allowed to purchase a soda or get a R Rated movie?	If a restriction needs to be implemented by Division funded staff, it must go through due process.
36	How are remote supports not restrictive?	For the waiver service of Remote Supports, we are looking specifically at the use of technology to provide supports from another location in place of physical staff. This

		<p>waiver service is now a stand-alone service and like any of the other services is not a restrictive support by nature, so the language requiring due process was removed from the new waiver language.</p> <p>Remote Supports are not surveillance of an individual. Electronic support systems using on demand video and/or web-cameras, or other technology are only available on an individual, case-by-case basis when an individual requests the service and the planning team agrees it is appropriate and meets the health and safety needs of the individual. Video and/or web cameras shall not record audio or video feed of an individual. When video equipment is utilized, the data system shall track all utilization of the equipment including who activated it, when it was activated, how long it was active, and why it was activated. When cameras are utilized, they may not be placed in or provide view of private spaces such as bedrooms and bathrooms. <a href="#">providerbulletin29.pdf (mo.gov)</a></p> <p><u>Note: If remote supports are used to restrict an individual's right to access things in his environment such as food, due process is required.</u></p>
<b><u>General Due Process Questions</u></b>		
<b>37</b>	Where can providers/TCMs find agency DP referral types, for trend reporting?	This information is documented on the Annual Provider Performance Report.
<b>38</b>	Can anyone provide "external advocacy" for due process?	This is external advocacy of the individuals choosing.
<b>39</b>	What if the restriction is due to a provider policy?	<p>Policies shall not prohibit rights through provider practices or rules.</p> <p style="text-align: center;"><i>9CSR 45-5.010 (4) (E) 2. Provider policy, procedures, and practices shall protect and promote the rights of each individual.</i></p>

40	Is there a standard amount of time for a restriction? 3 months or 6 months?	No, the amount of time a restriction is in place is dependent on the criteria for restoration the team identifies.
41	Do calories or fluid restrictions that are doctor ordered need to go through Due Process?	<p>If the individual does not have the option to refuse the specialized diet, this is considered restrictive. If the individual has a specialized diet and the ISP indicates that the person is choosing to follow the diet, this is not considered restrictive. The individual should be able to communicate this outside of the plan.</p> <p>9 CSR 45-5.010 (4) (H) (7). <i>Individuals are supported in eating a diet which honors individual choice and meets nutritional needs.</i></p> <p>9 CSR 45-5.010 (4) (H) (8). <i>Individuals who have a specialized diet, prescribed to meet identified healthcare needs of the individual, are informed of the reason for the diet and consent to the diet. Orders for specialized diets are reviewed at least annually by a registered dietician, the individual's physician, physician assistant, or advanced practical nurse (APRN). Direct care staff shall be trained by either a dietician or registered nurse in the preparation and implementation of the diet prior to providing independent direct care services. Individual choice shall be honored. Providers may elect to have management staff trained as a trainer for non-nurse delegated diets.</i></p>
42	Is birth control considered a restriction?	<p>If used for the purpose to prevent pregnancy and the individual does not have the right to refuse the medication, this is considered restrictive.</p> <p>9 CSR 45-5.010 (4) (H) 11. <i>Individuals are educated about the purpose, benefits, risks, and side effects of</i></p>



		<i>all prescribed medications and treatments, to assist them in making informed choices about their health care. Individuals are respected in their decision to refuse medication and treatment.</i>
<b>43</b>	I did note that some of the bullet points on the website were different than on the state template (mostly in order, and certain parts separated into their own sections). Is the state template going to be updated to match the website for ease of entry?	Procedure 12.8.1a and 12.8.1c replaces Division Directive 4.200 –Due Process Review Committee.
<b>44</b>	If someone chooses to have their money locked up by staff, is it a restriction?	If the ISP indicates that the person is choosing to have their money locked up, this is not considered restrictive. The individual should be able to withdraw their decision to have their money locked up at any time and the team should comply.
<b>45</b>	Can we call on DPRC prior to a restriction to get guidance if a provider feels they need to make a restriction?	Any assistance or guidance around due process should follow the Individual Rights Consultation procedure by entering a request in <a href="https://redcapdd.azurewebsites.net">Individual Rights &amp; Due Process Consultation Request (redcapdd.azurewebsites.net)</a>