

Information for the Behavior Regulations Listening Sessions

The Office of Aging and Disability Services is looking for input on the behavior regulations. The Maine Developmental Disabilities Council and Disability Rights Maine wrote this to help individuals with developmental disabilities and their families to be able to comment on the regulations. It is for information only. It includes opinions of Maine Developmental Disabilities Council and Disability Rights Maine.



What are the behavior regulations?

Behavior regulations are the law about what happens if a service provider wants a person to have a “behavior management plan,” which is a plan to restrain a person or restrict their rights.

Who is affected by the behavior regulations?

The regulations apply to adults who receive developmental services (Mainecare Section 29 or 21, sometimes called “the waiver”, or Section 50, Intermediate Care Facilities). Most people who receive services do not have behavior management plans.



Why is OADS looking for input?

There are some new rules for how things need to be done. There may be better ways of doing some things. People may want different things than when the regulations were first written.

Why should I think about providing input about the behavior regulations?

People who are affected by rules and regulations should have a say in those rules. The behavior regulations are especially important because an approved behavior management plan makes it ok to violate a person’s rights.

What will happen once I provide input?

OADS is going to review all of the things that people say to help them decide what to put in the new regulation. Once they have decided, there will be another time to give feedback. It will take many months for changes to be made.



What do the behavior regulations say?

<https://www.maine.gov/dhhs/oads/providers/adults-with-intellectual-disability-and-autism/behavioral-regulation>



The regulations are complicated. If you have questions about the about a plan that impacts you, you can contact Disability Rights Maine: <https://drme.org/contact>.



Adults receiving developmental services have basic human rights and protections just like anyone else. Those rights can be restricted when there is an emergency. For example, if a person is about to step into a busy road when a truck is approaching, it is OK for staff to stop the person from going into the road, even if the person doesn't want to be stopped. Aside from an emergency, a person's rights can be restricted if they have a Behavior Management Plan.

These regulations explain how rights can be restricted using a Behavior Management Plan.

A Behavior Management Plan restricts someone's rights because they have "challenging behavior." A "challenging behavior" is something that is dangerous to the person or others or makes it harder for a person to have a good life experience or have relationships.

Some of the rights that can be violated in a behavior management plan include:

- The right to be free from restraint
- The right to access one's own property (including food and money)
- The right to use the telephone, receive mail, and have visitors

In Maine, only adults receiving developmental services have their rights restricted in this way.



What needs to happen for a person to get a Behavior Management Plan?

- The person's team collects information about the challenging behavior.
- The person may have an evaluation by a behavior specialist.
- The person's team writes a plan.
- The voting members of the Review Team look at the plan to see if they agree with it.



The Review Team has 3 people on it. One person is from Disability Rights Maine. DRM advocates for the person subject to the plan. One person is from the Office of Aging and Disability Services and one person is from the Oversight and Advisory Board. The people from OADS and the OAB decide and vote whether the plan is ok. There are different people on the teams in different parts of the state.

The Review Team is supposed to look at the plan to see if it shows the restrictions are necessary, safe, and that there is a way for it to end. The Review Team looks at the plan at least once a year. It usually takes a few months to get a plan.



What are some good things about the behavior regulations?

- They help make sure that people's rights are not being restricted without oversight. People's rights are important, and they should not be easy to restrict.
- They say that some things, like seclusion, can't happen.
- They have some good ideas about how behavior management should work.
- They are detailed.



What are some concerns with the behavior regulations?

- There are a lot of ways people's rights can be violated.
- The people who receive services don't always get to say how they would like to be supported.
- People with intellectual disabilities and autism can be treated differently than others.
- Rights restrictions, including restraints, are sometimes used when there is not an emergency.
- Individuals and families do not always understand behavior management plans.
- Direct Support Professionals are not always well trained or well supervised. Sometimes they don't know about plans and sometimes they don't follow plans.
- We don't have much information about the effects of the plans on other people.
- We don't do much planning for how we could avoid using restrictive plans.



How can I give good input?

- Talk about how the behavior management plan process has affected you or people that you know.
- Talk about a time when the system handled something well and why you thought it went well.
- If you can, talk about what you think should be different in how agencies handle behavior management. Why do you think that?