**R539. Health and Human Services, Services for People with Disabilities.**

**R539-13. Division Definitions.**

**R539-13-1. Authority and Purpose.**

(1) Sections 26B-6-402 and 26B-6-403 authorize this rule and give the division responsibility for the administration of services and supports for persons with disabilities.

(2) This rule provides common definitions applicable to Title R539.

**R539-13-2. Definitions.**

Terms used throughout Title R539 are defined as follows:

(1) "Agency action" means the same as described in Section 63G-4-102.

(2) "Applicant" means an individual applying for a determination of eligibility.

(3) "Attendant care services" means individually tailored assistance, skill building, supervision, and support for a person to live as independently as possible in the person's own home or family home.

(4) "Behavior intervention" means a specific technique or procedure designed to:

(a) decrease unwanted target behavior and increase desirable target behavior;

(b) ensure the safety of the person or any other person;

(c) reduce significant property damage; or

(d) teach a skill.

(5) "Behavior support plan" means a written plan of instruction designed to address a person's specific unwanted target behavior and teach a desirable target behavior.

(6) "Brain injury" means the same as defined in Section 26B-6-401.

(7)(a) "Budget limit" means the maximum allowable budget for any self-administered service and caregiver compensation service described in Rule R539-16.

(b) This budget limit is published on the division website in the Rate Master document.

(8) "Caregiver" means a person's parent, step-parent, legal guardian, or spouse who delivers supported living or attendant care services to the person through the caregiver compensation service delivery method.

(9) "Caregiver compensation service delivery method" means a service delivery method to provide supported living or attendant care services that allows a caregiver to be paid to provide extraordinary care to a person.

(10) "Department" means the Department of Health and Human Services.

(11) "Director" means the director of the Division of Services for People with Disabilities, as defined in Section 26B-6-401.

(12) "Division" means the Division of Services for People with Disabilities, as defined in Section 26B-6-401.

(13) "Employee of the division" means a staff member employed by the division.

(14) "Extraordinary care" means the same as defined in Section R414-523-3.

(15) "Fiscal agent" means an individual or entity contracted by the division to perform fiscal, legal, and management duties.

(16) "Guardian" means:

(a) the parent of a minor child; or

(b) someone appointed by a court with the legal authority to make an informed decision on behalf of an individual deemed incompetent in an area of that individual's life.

(17)(a) "HCBS waiver" or "waiver" means Medicaid home and community-based services, which are long term services and support provided to an individual in the individual's home or another community setting, authorized under Section 1915(c) of the Social Security Act and approved for Utah by the Centers for Medicare and Medicaid Services.

(b) An HCBS waiver includes the:

(i) Acquired Brain Injury Waiver;

(ii) Community Supports Waiver;

(iii) Community Transitions Waiver;

(iv) Limited Supports Waiver; and

(v) Physical Disabilities Waiver.

(18) "Hearing request" means a written request for an administrative hearing.

(19) "Person" means an eligible individual:

(a) receiving a division service; or

(b) on the waiting list for division services.

(20) "Person-centered budget" means an annual budget that:

(a) reflects a person's assessed needs and preferences; and

(b) conforms to the services and budget amounts set by the Request for Services (RFS) Committee.

(21)(a) "Person-centered planning" or "PCP" means an individualized approach to planning services and supports to help a person achieve the person's goals.

(b) PCP incorporates the principles of inclusion, informed choice, integration, person-centered practice, person-centered thinking, and self-determination.

(22) "Person-centered support plan" or "PCSP" means the support plan developed through the PCP process that complies with 42 CFR 441-301(c)(2).

(23) "Provider" means an agency or business contracted with the division to provide services.

(24) "Provider human rights committee" means a group established and maintained by the provider to provide a recommendation to a person's PCSP regarding the person's human rights.

(25) "Provider-based" means a service delivery model for a person to receive a service included in the PCSP from a provider.

(26)(a) "Request for services" or "RFS" means a process integrated into Utah System for Tracking Eligibility, Planning, and Services (USTEPS) that facilitates the creation of a person-centered budget through an initial budget and any budget adjustment by submitting:

(i) proposed service codes, units, and rates;

(ii) designated start and end dates; and

(iii) evidence of need to the RFS Committee for review.

(b) The process is described in Sections R539-12-3 through R539-12-6.

(27) "Resident" means the same as defined in Section 26B-6-401.

(28) "SAS employee agreement" means a binding agreement between the SAS employer and SAS employee that establishes the terms and conditions of employment.

(29) "SAS employer agreement" means a binding agreement between the division, a person, and the SAS employer that establishes the required terms and conditions of participation in the self-administered services program.

(30)(a) "Self-administered services" or "SAS" means a service delivery model where the person or the person's designee is the employer.

(b) The employer is responsible to manage the budget and hire employees to administer certain services to the person.

(31) "Self-administered services employee" or "SAS employee" means an individual hired to provide services to a person through the SAS delivery model.

(32) "Self-administered services employer" or "SAS employer" is a person, or an individual designated by the person, responsible for the administration of the person's SAS.

(33) "State match rate" means the state-funded portion of a person's assessed needs as determined through the person-centered planning process.

(34) "State resident" means an applicant, person, or guardian who voluntarily lives in the state with the intention of becoming a resident of the state, as described in Section R414-302-4.

(35) "Substantial functional limitation" means the same as defined in Subsection 26B-6-401(9)(a)(iii) and includes areas of major life activity, as described in Subsections (34)(a) through (34)(g), for determining eligibility for division services.

(a) "Capacity for independent living" means:

(i) a minor applicant, at least seven years of age, cannot:

(A) cross a street safely;

(B) locate and use a telephone; or

(C) understand that it is not safe to accept food, money, or transportation from a stranger; or

(ii) an adult applicant lacks basic skills in the areas of shopping, preparing food, housekeeping, or paying a bill.

(b) "Economic self-sufficiency" means an adult applicant:

(i) cannot work more than 20 hours a week or is paid less than minimum wage without employment support; and

(ii) receives disability benefits.

(c) "Learning" means an applicant has a valid diagnosis of intellectual disability based on the criteria found in the Diagnostic and Statistical Manual of Mental Disorders, version 5 (2013), incorporated by reference in this rule.

(d) "Mobility" means an applicant:

(i) cannot self-evacuate from a building during an emergency without an assistive device; and

(ii) requires the use of an assistive device for mobility.

(e) "Receptive and expressive language" means an applicant:

(i) cannot follow a two-step instruction;

(ii) does not demonstrate an understanding of requests;

(iii) lacks functional communication skills; or

(iv) requires the use of an assistive device to communicate.

(f) "Self-care" means an applicant requires assistance, training, or supervision with eating, dressing, grooming, bathing, or toileting.

(g) "Self-direction" means an applicant is:

(i) a minor, at least seven years of age, significantly at risk in making an age-appropriate decision;

(ii) a significant danger to self or any other individual without supervision;

(iii) declared legally incompetent; or

(iv) unable to provide informed consent for financial matters, habilitative care, legal matters, medical care, personal safety, or residential matters.

(36) "Support" means required assistance for any portion of a task that allows a person to:

(a) independently complete any other portion of the task; or

(b) assume increasingly greater responsibility for performing the task independently.

(37)(a) "Support coordinator" means an employee of the division or an individual contracted with the division who assists with:

(i) assessing the need of a person receiving division funding;

(ii) completing written documentation of support;

(iii) developing a service and support plan for a person receiving division funding;

(iv) monitoring the appropriate spending of a person's annual budget;

(v) monitoring the health and welfare of a person; and

(vi) monitoring the quality of each service used by a person receiving division funding.

(b) If a person receives waiver services, a support coordinator shall assure compliance with each waiver program requirement.

(38) "Supported living services" means one-on-one assistance, skills building, and supervision to a person for maintaining the health and safety of the person and promoting an independent, integrated, and self-determined life.

(39) "Team" means the person-centered support team made up of team members.

(40)(a) "Team member" means any member of a person's circle of support who participates in the planning and delivery of any service and support with the person.

(b) A team member may include:

(i) the person applying for or receiving a service;

(ii) the parent;

(iii) the guardian;

(iv) the support coordinator;

(v) a friend of the person; and

(vi) any other professional and provider staff working with the person.

**KEY: human services, disabilities**

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**Authorizing, and Implemented or Interpreted Law: 26B-6-402; 26B-6-403**