



Selection of MSC Agency by Individuals without Guardians, Advocates or Actively Involved Family Members Policy

Developing and engaging a circle of support with an individual receiving services is a foundational element of strong person-centered practices. All possible efforts should be made to involve family members or people desired by the individual receiving services in person-centered service planning.

In circumstances when it has been determined that an individual transitioning from an ICF to HCBS waiver supports lacks the capacity to make decisions on his/her own behalf and does not have an advocate or actively involved family member¹ who makes decisions for them, the clinical planning team, or ICF provider designee, can choose the MSC provider agency. The following restrictions apply in these circumstances to control for potential conflict of interest:

- The chosen MSC vendor should not be the provider of residential habilitation services for the individual unless there is a clear justification that the provider is the only available option or the provider has a particular profile that would be of benefit to the individual; and
- In the event that the selected MSC provider also delivers residential habilitation services to the individual, in situations consistent with the circumstances defined above, there must be approval from the DDRO ensuring that the justification is valid.

Team or Designee Provider Selection

The team or designee will make the decision based on the best interest of the individual and will consider such things as the particular expertise of the MSC provider agency. Specifically:

- The selected MSC Provider/ MSC Program has special expertise/specialized services needed by the individual that is not available through other local providers in their region
- The selected service coordinator has special experience or education to meet the needs of the individual
- Absence of other qualified or appropriate MSC provider organizations that would be reasonably accessible to the individual
- The individual has a long-standing and positive relationship with the current residential provider and a modification or addition of a new entity is assessed to be potentially upsetting to the individual

If the team determines that there is justification for the service delivery agency to serve as MSC in its independently supervised MSC program, the agency should complete the attached form identifying the justification for the selection and submit it to the DDRO's ICF Transition Liaison for review by the DDRO Deputy Director or his/her designee. The Director/Deputy Director or his/her designee will review the request and notify the ICF provider within 10 business days of the decision to approve or deny this request. The DDRO will upload the approval letter and form into Choices

¹ "Advocate" is defined in 14 NYCRR 635-99.1(c) and "actively involved" and "family member" are defined respectively in 14 NYCRR 633-99(ax) and (bf).