

BENCO
Agency
POLICIES AND PROCEDURES

INDIVIDUAL RIGHTS

OAR: 411-323-0060 (1) a-c and 411-318-0010 (1) a-z (2)

POLICY:

(1) Adults with developmental disabilities have the same rights and responsibilities as other citizens in our society unless legally abridged.

PROCEDURES:

- **(a)** Benco will protect the rights of individuals described in OAR 411-318-0010 and encourage and assist individuals to understand and exercise his or her rights.
 - **(b)** Upon entry and request and annually thereafter, the individual rights described in OAR 411-318-0010 will be provided to the individual and the legal or designated representative of the individual.
 - **(c)** The individual rights apply to all individuals eligible for or receiving developmental disability services.
- Individual Rights:
- An individual may need guidance and assistance which may occasionally modify or limit the choices her or she has in exercising certain rights. The individual's choices may not be limited or modified without the informed consent of the individual or persons acting on his or her behalf, through the individual support plan process. Any modifications or limitation should be specific, rather than general or blank, and should be reviewed each year at the individual support plan meeting.
 - It is Benco's responsibility to consistently protect the rights of the persons participating in the program. Benco will assist the individual to access his or her community including: recreational and social activities and employment or daytime activity programs. Activities will occur on a regular basis and documentation of the activities and training will be maintained.
 - Benco shall encourage and assist individuals through the individual support plan process to understand and exercise his or her rights.

BENCO
Agency
POLICIES AND PROCEDURES

- Benco will strive to protect the individual from abuse all times. The program will ensure appropriate and dignified services which promote independence, dignity, self-esteem and age appropriate preference of the individual. At no time, will any employee violate the individual's rights of confidentiality in all aspects of the individual's life.
- Benco shall inform the individual and parent or guardian orally and in writing of his or her rights and a description of how to exercise those rights. This shall be completed at entry to the program and in a timely manner thereafter as changes occur. Information shall be presented using language, format and methods of communication to the individuals need and abilities.
- **(1)** While receiving developmental disability services, an individual has the right to:
 - **(a)** be free from abuse or neglect and to report any incident of abuse or neglect without being subjected to retaliation. Individuals have the right to be free from seclusion, unauthorized training or treatment, and personal, chemical and mechanical restraints, unless an imminent risk of physical harm to the individual or others exists and only for as long as the imminent risk continues.
 - **(b)** Individuals have the right to be free from personal restraints. Safety restraints such as helmets and splints shall be used only with a physician's order and shall be part of the individuals support plan. Such use shall be reviewed at a minimum on a semi-annual basis with the physician.
 - **(c)** Individuals have the right to be assured that prescribed medication is administered only for the clinical needs of the individual as prescribed by a health care provider, unless an imminent risk of physical harm to the individual or others exists and only for as long as the imminent risk continues.
 - **(d)** An individual has the right to choose to consent to or refuse treatment unless incapable and then an alternative decision maker must be allowed to consent to or refuse treatment for the individual.
- Psychotropic medication will only be used with informed consent in two circumstances, in conjunction with a proactive behavior program; and when prescribed for a documented mental illness for which psychotropic

BENCO
Agency
POLICIES AND PROCEDURES

medication has been proven to be effective. All psychotropic medications must be prescribed and monitored by a physician who is skilled in dealing with persons with developmental disabilities. Psychotropic medication and blood levels must be monitored by the prescribing physician. Under no circumstances will medication be used as a substitute for a behavior program, or for the convenience of the program. PRN psychotropic medications are prohibited.

- Restraints used for behavioral control to safeguard the individual or others shall only be used per the policy and procedure on physical restraints.
- **(e)** Individuals have the right to informed, voluntary, written consent prior to receiving services, except in a medical emergency or as otherwise permitted by law.
- **(f)** Individuals have the right to informed, voluntary, written consent to participation in any experimental programs.
- **(g)** Individuals have the right to a humane service environment that affords reasonable privacy and the ability to engage in private communications with people chosen by the individual through personal visits, mail, telephone or electronic means.
- Individuals have the right to send and received unopened, uncensored mail. Employees will read and explain information, as necessary, to the individual and help with follow through as needed. Individuals may make and receive telephone calls without censorship and employees will assist the individual with the telephone as needed. Individuals are asked to respect the rights of his or her program mate's when more than one person desires to use the telephone.
- The individual will have his or her own personal bedroom or apartment. Employees should never enter an individual's bedroom or apartment without receiving permission from the individual unless an emergency exists. Employees should avoid going into an individual's bedroom or apartment when the individuals are not home, but if this is necessary, it is imperative that employees respect the privacy of the individual. Looking through an individual's belongings is not acceptable. Sensitivity to the need for privacy for the individual will be provided during care and treatment including personal hygiene.

BENCO
Agency
POLICIES AND PROCEDURES

- **(h)** The program is the home of the individual and it is his or her right to have guests visit at any time without prior notification to employees.
- The behavior of the guest must meet the standards generally held within the program and the host must respect his or her program mate's rights while entertaining guests. The program will assist individuals in maintaining desired relationships with family members, friends and advocates. The program will facilitate visits to legal and medical professionals and will assist individuals, as requested in obtaining desired services.
- **(i)** Individuals have the right to participate regularly in the community and use community resources, including recreation; developmental disability services; employment services; school; educational opportunities; and health care resources.
- The individual will have a desired number of recreational activities listed in his or her individual support plan and employees will assist individuals in identifying desired recreational activities and services, and will assist in ensuring that the activities occur as desired by the individual.
- **(j)** Benco will ensure that individuals less than 21 years of age, have access to a free and appropriate public education, including a procedure for school attendance or refusal to attend.
- **(k)** Individuals have the right to visit with legal and designated representatives, family members, friends, advocates and medical professionals. Individuals will not be required to perform labor, except personal housekeeping duties without reasonable and lawful compensation.
- The program will advocate for real work and real pay for the individual. Employees will support individuals who have a non-traditional job. If individuals provide a job-related service for the program that is in addition to routine home maintenance as part of his or her individual support plan, the individual will be paid a comparable rate to community standards for that job.
- The program will advocate for another daytime activity program or employment to be provided at a separate location.

BENCO
Agency
POLICIES AND PROCEDURES

- **(l)** Individuals have the right to manage his or her own money and financial affairs unless the right as been taken away by court order or other legal procedure.
- **(m)** Individuals have the right to keep and use personal property and have a reasonable amount of personal storage space. The program will ensure that the individual has his or her own choices in personal property and personal control and freedom regarding that property. The individual will have a personal property record completed upon entry into the program and the list will be updated at least semi-annually thereafter. If desired, individuals will be assisted in saving money to purchase specific items. Employee's will not use or borrow money or personal belongings from an individual for any reason.
- Benco will ensure that the individual receives the various agency services which he or she desires. It is assumed that most individuals will be employed or attend a daytime activities program outside of the home. If the individual loses his or her daytime activities program or employment, the program will provide employee coverage during the hours which the individual is at home.
- **(n)** Individuals have the right to food, housing, clothing, medical and health care, supportive services and training. The program will ensure that individual preferences will be taken into consideration and that well balanced, appetizing, appealing meals are available to the individual. Three meals and two snacks will be provided each day. The program will be well maintained, clean, attractively furnished and temperature controlled.
- Individuals can worship, or not worship, as he or she chooses. The program will assist individuals as requested, to attend to attend religious services of his or her choice. The program will also ensure that the religious beliefs of employees or other individuals within the community will not be forced upon an individual. The program will respect the religious customs of the individuals and will help to ensure that those customs are met, as desired by the individual. The program will be sensitive to the cultural and ethnic values of individuals. Assistance will be provided to maintain his or her cultural and ethnic identity.
- Individuals will be assisted in obtaining political information and the program will assist the individual with voting. The program will ensure that

BENCO
Agency
POLICIES AND PROCEDURES

the employees and other individuals within the community will not force his or her political opinion upon the individual.

- **(o and p)** Individuals have the right to seek a meaningful life by choosing from available services created through a person-centered planning process. Services are based upon the plan, review and reassessment of services and will occur annually.
 - Individuals that desire love, affection and sexual contact will be assisted in developing and maintaining meaningful personal relationships which will improve his or her quality of life.
 - Employees may assist in the process by helping to plan recreational activities which allow social contact, assisting in the transportation for dates, and having an open supportive attitude in regard to the individuals needs in this area.
 - If an individual desires a sexual relationship with a willing partner, the program will provide information regarding birth control, safe sexual practices and the responsibilities that come with a sexual relationship. The program may refer the individual to a responsible community resource which provides family planning services.
 - The individual's rights to privacy will be respected in this area. Individuals able to consent and who desire a sexual relationship are expected to respect his or her roommate's rights to privacy as well. If an individual wants to marry, the program will assist in locating an appropriate community resource to provide premarital counseling if desired and will help with details regarding the marriage and services which may be needed or desired after the marriage.
 - The program will also assist the individual in understanding the rights and responsibilities of marriage. If an individual wants to have a child the program will assist the individual in finding a family planning services, counseling and parent training programs if desired. Because Benco does not have the capacity to serve an individual with a child at this time, the individual's service coordinator will assist the individual in locating any services which may be needed.
- **(q)** Individuals have the right to participate in ongoing planning services including the right to participate in the development and periodic revision

BENCO
Agency
POLICIES AND PROCEDURES

of the plan for services. Individuals have the right to be provided with an explanation of all service considerations in a manner that ensures meaningful individual participation.

- Individuals have the right to invite others chosen by the individual to participate in the plan for services.
- **(r)** Individuals have the right to request a change in the plan for services and a reassessment of service needs.
- **(s)** Individuals have a right to timely decision upon request for a change in the plan for services and a reassessment of service needs.
- **(t)** Individuals have the right to be free from involuntary termination or transfer from services without prior notice. Individuals have the right to be notified of available sources of necessary continued services, and exercise of a complaint procedure. Occasionally an individual and his or her individual support plan team may wish to transfer to another program or agency.
- The request for transfer could be due to location of family members or significant others, or a potential job or for greater peer compatibility. Such a transfer can be considered when there is a vacancy in the proposed transfer program or when there are two individuals who wish to trade programs. In both instances, there must be consensus of the individual support plan team. Individual support plan members must ensure that when a “trade” is considered, both individuals must be willing to move and must understand that he or she may choose not to move.
- **(u)** Individuals have a right to advance written notice of any action that terminates, suspends, reduces, or denies a service or request for service, notification of available sources of necessary continued services, and a hearing to challenge an action that terminates, suspends, reduces or denies a service or request for services.
- **(v)** Be informed at the start of services and annually thereafter of the rights guaranteed by this rule, the contact information for the protection and advocacy system described in ORS 192.517 (1), and the procedures for filing complaints, reviews, hearings, or appeals if services have been or are proposed to be terminated, suspended, reduced, or denied.
- **(w)** Be encouraged and assist in exercising all legal rights.

BENCO
Agency
POLICIES AND PROCEDURES

- **(x)** Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the County.
- **(y)** Individuals have the right to be informed of and can assert complaints as described in OAR 411-318-0015 with respect to infringement of the rights described in this rule, including the right to have such complaints considered in a fair, timely, and impartial complaint procedure without any form of retaliation or punishment.
- **(z)** Individuals have the right to exercise all rights described in the rule without any form of reprisal or punishments; and be informed that a family member has contacted the program to determine that location of the individual, and to be informed of the name and contact information of the family member, if known, as provided under ORS 430.212 and OAR 411-320-0090.
- **(2)** The individual rights described in section (1) of this rule apply to all individual's eligible for or receiving a developmental disability service.

Approved By: Kristen Gregory
Kristen Gregory, Benco Board President

Date: 4/20/17