Appendix G: Participant Safeguards

Appendix G-1: Response to Critical Events or Incidents

a. **State Critical Event or Incident Reporting Requirements.** Specify the types of critical events or incidents (including alleged abuse, neglect and exploitation) that the State requires to be reported for review and follow-up action by an appropriate authority, the individuals and/or entities that are required to report such events and incidents and the timelines for reporting. State laws, regulations, and policies that are referenced are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

For the MRDD Waiver, all service providers are mandatory reporters for abuse, neglect or exploitation and required to report these types of incidents in accordance with AS 47.17.010 for children and AS 47.24.010 for Adults.

For incidents of abuse, neglect or exploitation in an assisted living home, service providers are required to report these incidents to the Division of Public Health, Certification and Licensing for Assisted Living homes pursuant to AS 47.24.013

In addition, other critical events and incidents should be reported in accordance with the Division of Senior and Disabilities Services Incident Report.

The types of critical events or incidents the State requires to be reported are:

- Death
- Serious Injury
- Missing persons
- Injury to others

All care givers are required to report critical incidents of suspected abuse, neglect and exploitation of children to the Office of Children's Services in accordance with AS 47.17.010 or of adults to
Adult Protective Services in accordance with AS 47.24.010 within 24 hours from discovery of the suspected abuse, neglect or exploitation.

b. **Participant Training and Education.** Describe how training and/or information is provided to participants (and/or families or legal representatives, as appropriate) concerning protections from abuse, neglect, and exploitation, including how participants (and/or families or legal representatives, as appropriate) can notify appropriate authorities or entities when the participant may have experienced abuse, neglect or exploitation.

Participants and their families are provided training and information concerning protections from abuse, neglect and exploitation and who and how to notify authorities when a participant may have experienced abuse, neglect or exploitation in Care Coordination Training offered by DSDS staff and in Family Waiver Training conducted by the Disability Law Center, Center for Human Development, and the Division of Senior and Disabilities Services MRDD program staff.

c. **Responsibility for Review of and Response to Critical Events or Incidents.** Specify the entity (or entities) that receives reports of critical events or incidents specified in item G-1-a, the methods that are employed to evaluate such reports, and the processes and time-frames for responding to critical events or incidents, including conducting investigations.

Critical Incident Reports of abuse, neglect or exploitation are considered reports of harm and must be submitted to DSDS Adult Protective Services (APS) or the Office of Childrens Services (OCS) within 24 hours from the time of the discovery of the incident. They are investigated in accordance with their priority for individual's health, safety and welfare. DSDS program staff are apprised of these situations by APS or OCS staff for information or joint investigation.

In addition to being mandatory reporters, HCB Agencies must provide the DSDS assurance that they have in place and implement policy and procedure that identifies and responds to critical incidents. The HCB Agencies respond to and review all reports of critical incidents, and, additionally are required to report death, serious injury, missing persons, and injury to others to the DSDS Program staff..
Within 24 hours of receipt, DSDS Program staff evaluate all critical incident reports they receive to determine if adequate response has occurred. They may conduct or coordinate an independent investigation or intervention if their evaluation identifies a need for further action.

d. Responsibility for Oversight of Critical Incidents and Events. Identify the State agency (or agencies) responsible for overseeing the reporting of and response to critical incidents or events that affect waiver participants, how this oversight is conducted, and how frequently.

For reports involving abuse, neglect or exploitation of vulnerable adults (18 years and older), the Department of Health and Social Services, DSDS Adult Protective Services (APS) Unit is responsible for oversight of the reporting of, and response to critical incidents or events that affect waiver participants.

For reports involving abuse, neglect or exploitation of vulnerable children (age 0-18 years), the Department of Health and Social Services, DSDS Office of Childrens Services (OCS) Unit is responsible for oversight of the reporting of, and response to critical incidents or events that affect waiver participants.

HCB Agencies and care coordinators are required to report critical incidents to the DSDS Program Managers who share as needed with staff who are responsible for the oversight of the reporting of and response to critical incidents or events that affect HCB Waiver recipients. All reports of critical incidents are reviewed immediately upon receipt to ensure adequate response is occurring or coordinate an intervention as necessary. Typically, the necessary action is completed or underway at the HCB Agency level by the time the report is made to the DSDS Program Managers.

DSDS Program Managers immediately refer situations requiring coordination of the DSDS resources to investigate and intervene to the Division's Quality Assurance Unit. Additionally, reports of critical incidents are provided routinely to the QA Unit. The QA Unit summarizes critical incident data at least quarterly to the Quality Improvement Workgroup to determine if corrective action is needed and quarterly to the Quality Improvement Steering Committee for consideration of systemic improvements.

Appendix G: Participant Safeguards

Appendix G-2: Safeguards Concerning Restraints and Restrictive Interventions (1 of 2)

a. Use of Restraints or Seclusion. *(Select one)*:

○ **The State does not permit or prohibits the use of restraints or seclusion**

Specify the State agency (or agencies) responsible for detecting the unauthorized use of restraints or seclusion and how this oversight is conducted and its frequency:

◉ **The use of restraints or seclusion is permitted during the course of the delivery of waiver services.** Complete Items G-2-a-i and G-2-a-ii.

i. Safeguards Concerning the Use of Restraints or Seclusion. Specify the safeguards that the State has established concerning the use of each type of restraint (i.e., personal restraints, drugs used as restraints, mechanical restraints or seclusion). State laws, regulations, and policies that are referenced are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Safeguards concerning the use of Restraints or Seclusion:

Current Practice

The health and safety of the recipient will be first and foremost in employing the administration of personal restraints or seclusion. To ensure the health and safety of recipients, personal restraints (i.e. holds) may be utilized in accordance with AS 47.33.330, 7 AAC 75.205, 12 AAC 44.950-970, and 7 AAC 43. State of Alaska Inpatient Quality Standards for Division Of Behavior Health Services (RS 7.0), Child Protection Services Administrative Manual, Chapter 6.0, Section 6.1.15 and 7 AAC 43.990-1110 Home and Community Based Services.

Licensed providers shall have a written procedure regarding the use of physical restraints that must be

approved by the licensing agency under AS 47.33 300 and AS 47.33.330. Individualized positive behavioral support plans that include a personalized policy for the use of restraints may also be developed as a component of the recipient's Plan of Care.

The use of interventions and physical restraints may be implemented if a recipient's actions present an imminent danger to the recipient or others as identified by any member of the recipient's interdisciplinary treatment team or direct service provider, but only after other interventions, including the use of a time out, have failed. A time out or physical restraint may not be used as a punishment, as a substitute for a less restrictive form of intervention, or as a convenience for the staff. A time out or physical restraint must be terminated as soon as the resident no longer presents an imminent danger to that resident or others.

The provider serving a MRDD recipient shall perform a comprehensive functional assessment as part of the Plan of Care assessment regarding the use of time outs or physical restraints that includes a description of the recipient's behavior that might indicate a need for the use of time outs or physical restraint and to help minimize the use of time outs or physical restraint.

Recipients have the right to participate in the development of the restraint plan and to present to the provider grievances and recommendations for change.

The individualized positive behavioral support plan that includes restraints or seclusion will be developed by the recipient, the parents, guardian and/or legal representative, recipient's care givers and other interdisciplinary team members. The plan will include information regarding 1) consent; 2) when time outs or physical restraints should be used; 3) who can authorize the specified intervention; 4) what forms of physical restraints should be used; 5) how long the intervention should be in place; 6) any pre-notification procedures requested by the recipient's representative; 7) monitoring and evaluation plan and timelines. Restraints for MRDD recipients must be approved by the parent/legal guardian, the service provider, and the Division of Senior and Disabilities Services. Positive behavioral support plans that include the use of restraints are reviewed by DSDS Program Specialists, at a minimum, during regularly scheduled provider meetings.

ii. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for overseeing the use of restraints or seclusion and ensuring that State safeguards concerning their use are followed and how such oversight is conducted and its frequency:

Current practice:
DSDS charges HCB Agencies to ensure the health and safety of HCB waiver recipients through written policies and procedures. HCB agencies sign assurances that theses policies and procedures are in place, and that significant incidents will be reported when a situation calls for it.

Licensed facilities (including licensed assisted living homes providing residential habilitation group home, family habilitation home, and out of home per diem respite) providing care for HCB waiver recipients (age 18+ years old) must have a written procedure regarding the use of physical restrained that has been approved by DHSS Division of Certification and Licensing (as required under Alaska law AS 47.33.330) before implementing its use. Under that provision, assisted living home staff may use physical restraint if a resident's actions present an imminent danger to the resident or others and after other interventions, including the use of a time out, have failed.

An explanation of this policy is made at the time of an HCB waiver recipient's admission into the licensed home and each time the HCB waiver plan of care affecting restraints is amended or renewed.

(Physical restraint is a manual method that restricts body movement, or a physical or mechanical device, material or piece of equipment that is attached or adjacent to the resident's body, that prevents the recipient from easily removing it, and that restricts movement or normal access to the body. The use of safety equipment will not be considered physical restraint, if authorized in writing by the recipient's primary physician and if the necessity for its use is set out in the recipient's assisted living plan.)

Each incident when physical restraint is used the assisted living home must be reported to the recipient's representative. If the recipient's assisted living plan requires it, the recipient's representative will be notified before restraint is used. Otherwise, the recipient's representative will be notified within 24 hours or the next business day.

All use of physical restraint will be recorded in writing. No home may require a recipient to take a time out without the recipient's consent and the time out may not exceed 30 minutes.

Throughout the Plan of Care process, recipients and their families or the legal representative are informed of their right to respectful treatment and how to contact the DSDS to make complaints. This right and how to implement it is reviewed by the Care Coordinator with the recipient and the legal representative at least annually and understanding is acknowledged by the participant or the representative signing a statement of understanding and acceptance of services.

Care Coordinators are required to have at least two contacts per month with each recipient in their case-load. During these contacts a verbal review of the use of restraints takes place.
In addition, HCBS agency staff who have routine contact with the participant monitor restraint use and seclusion.

When inappropriate restraint or seclusion is identified by HCB agency staff, a caregiver or the Care Coordinator it shall be reported to the HCB agency, medical professionals or the interdisciplinary treatment team for that recipient, the Long Term Care Ombudsman, Assisted Living Licensing, Adult Protective Services or Office of Children's Services, and/or police as the situation necessitates.

Effective July 1, 2006
During the twice a month health and safety reviews, Care Coordinators will review the restraint logs of licensed assisted living homes or licensed foster homes. Care coordinator will report of restraint use or seclusion by forwarding such information to appropriate DSDS waiver staff at least quarterly. If actions of a provider are in violation of State Statute or regulations, DSDS who will act on the report by forwarding it to the DSDS certification unit for possible sanction and also to the Quality Assurance Unit for tracking and analysis. The Quality Improvement Workgroup reviews the data and determines avenues of corrective action.

Time line for expansion of DSDS oversight of restraints and restrictive interventions to unlicensed environments:

July 1, 2007 – Individuals receiving day habilitation and adult day service will be required to have restraint plans approved in a similar manner and care coordinators will be required to review restraint logs and make appropriate reports to DSDS and referrals when appropriates..
July 1, 2008 – The DSDS oversight will extend to the remainder of DSDS HCB waiver services.

Appendix G: Participant Safeguards

Appendix G-2: Safeguards Concerning Restraints and Restrictive Interventions (2 of 2)

b. Use of Restrictive Interventions. *(Select one)*:

- ○ **The State does not permit or prohibits the use of restrictive interventions**

  Specify the State agency (or agencies) responsible for detecting the unauthorized use of restrictive interventions and how this oversight is conducted and its frequency:

- ◉ **The use of restrictive interventions is permitted during the course of the delivery of waiver services**
  Complete Items G-2-b-i and G-2-b-ii.

  i. **Safeguards Concerning the Use of Restrictive Interventions.** Specify the safeguards that the State has in effect concerning the use of interventions that restrict participant movement, participant access to other individuals, locations or activities, restrict participant rights or employ aversive methods (not including restraints or seclusion) to modify behavior. State laws, regulations, and policies referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency.

Other Restraints of Movement

The use of all restrictive interventions is described in (b)(i). and (b)(ii).

ii. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for monitoring and overseeing the use of restrictive interventions and how this oversight is conducted and its frequency:

State oversight responsibilities for all restrictive interventions are specified in (b)(ii).

Appendix G: Participant Safeguards

Appendix G-3: Medication Management and Administration (1 of 2)

This Appendix must be completed when waiver services are furnished to participants who are served in licensed or unlicensed living arrangements where a provider has round-the-clock responsibility for the health and welfare of residents. The Appendix does not need to be completed when waiver participants are served exclusively in their own personal residences or in the home of a family member.

a. Applicability. Select one:

- ○ **No. This Appendix is not applicable** *(do not complete the remaining items)*
- ◉ **Yes. This Appendix applies** *(complete the remaining items)*

b. Medication Management and Follow-Up

i. **Responsibility.** Specify the entity (or entities) that have ongoing responsibility for monitoring participant medication regimens, the methods for conducting monitoring, and the frequency of monitoring.

Responsibility for monitoring participant medication regimens for the MRDD Waiver is held by parents/guardians or other direct family members, and licensed health care providers including physicians, pharmacists, and nurses. If the recipient is in state custody, a state guardian is responsible for monitoring recipient medication regimens. For recipients in licensed facilities, the facility is responsible for monitoring recipient medication regimens.

Prescribing entities are responsible for the administration and monitoring of all medication regimens as set forth in AS 08.80 and 12 AAC 52.

The delegation of the administration of medication must also be conducted in accordance with 12 AAC 44.965. Licensed facilities must follow medication requirements set forth in AS 47.33.020 and 7 AAC 10.645.

The Division of Senior and Disabilities Services Program Specialists review at least annually medication regimens as a component of the Plan of Care and during periodic on-site recipient visits. This review includes an evaluation to ensure medications are consistent with the recipient's diagnoses and fits with the recipient's condition.

Care Coordinators are responsible for monitoring the recipient's circumstances, including medication regimens, during monthly care coordination visits with the recipient. The results of which may be discussed during monthly technical assistance meetings with State Program Specialists.

ii. **Methods of State Oversight and Follow-Up.** Describe: (a) the method(s) that the State uses to ensure that participant medications are managed appropriately, including: (a) the identification of potentially harmful practices (e.g., the concurrent use of contraindicated medications); (b) the method(s) for following up on potentially harmful practices; and, (c) the State agency (or agencies) that is responsible for follow-up and oversight.

(a) DSDS relies upon the recipient's private physician and health care providers to ensure that medications are prescribed appropriately. Care coordinators and DSDS staff review a list of drugs as provided by the recipient or recipient's guardian during the Plan of Care develop and look for obvious contraindications, alternative therapies or potential harmful practices. If detected, the DSDS program staff refer the issue to the

DSDS staff nurses, family and/or the recipient's health care provider for follow-up.

(b) DSDS Nurses provide technical assistance to the DSDS staff and on a limited basis, to providers. When warranted, the DSDS Nurses may convene a Care Team Planning Conference to address questions about medication and medication management. Otherwise the DSDS staff who informed the recipient, recipient's legal guardian and/or physician would follow-up on the issue until it has been resolved.

(c) If the problems identified with harmful practices are related to improper nursing delegation, the individual would be reported to the Nursing Board in the Division of Occupational Licensing, and (when appropriate) Adult Protective Services; the facility would be referred to the Division of Public Health Certification and Licensing to address violations of their license, and to DSDS certification for possible sanctions and/or decertification.

Reports of each type of problem would be submitted by DSDS staff to the Quality Assurance Unit where the data is tracked and presented to the Quality Improvement workgroup.

Appendix G: Participant Safeguards

Appendix G-3: Medication Management and Administration (2 of 2)

c. Medication Administration by Waiver Providers

i. Provider Administration of Medications. *Select one:*

- ○ **Not applicable.** *(do not complete the remaining items)*
- ◉ **Waiver providers are responsible for the administration of medications to waiver participants who cannot self-administer and/or have responsibility to oversee participant self-administration of medications.** *(complete the remaining items)*

ii. State Policy. Summarize the State policies that apply to the administration of medications by waiver providers or waiver provider responsibilities when participants self-administer medications, including (if applicable) policies concerning medication administration by non-medical waiver provider personnel. State laws, regulations, and policies referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

State regulations apply to HCB Agency personnel who administer medications (12 AAC 44.950 – 12 AAC 44.970, Delegation of medication to un-licensed assistive personnel).
HCB Agency provider responsibilities when participants self- administer medications self administration of medications include:
1. reminding the recipient to take medication;
2. opening a medication container or pre-packaged medication for a recipient;
3. reading a medication label to a recipient;
4. observing a recipient while the recipient takes medication;
5. checking a recipient self-administered dosage against the label of the medication container;
6. re-assuring a recipient that the recipient is taking the dosage as prescribed; and
directing or guiding, at the request of the recipient.

iii. Medication Error Reporting. *Select one of the following:*

- ◉ **Providers that are responsible for medication administration are required to both record and report medication errors to a State agency (or agencies).**
Complete the following three items:

(a) Specify State agency (or agencies) to which errors are reported:

HCB Agency staff are responsible for reporting medication errors to the prescribing physician and to the HCB Agency. If the medication error results in the hospitalization of the recipient, it shall be reported as described in (c).

(b) Specify the types of medication errors that providers are required to *record:*

All medication errors must be recorded in the recipient's record.

(c) Specify the types of medication errors that providers must *report* to the State:

Medication Errors that result in hospitalization or other medical treatment must be immediately reported to DSDS Program staff as a Critical Incident Report.

- **Providers responsible for medication administration are required to record medication errors but make information about medication errors available only when requested by the State.**

Specify the types of medication errors that providers are required to record:

iv. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for monitoring the performance of waiver providers in the administration of medications to waiver participants and how monitoring is performed and its frequency.

For the MRDD waiver, HCB Agency staff are responsible for monitoring waiver providers in the administration of medications. HCB Agency staff review medication errors on an on-going basis and implement corrective actions, which may include the provision of training.

The licensing agency is responsible for monitoring the administration of medications for licensed providers (assisted living homes and foster homes).

The Division of Senior and Disabilities is piloting a procedure now, reviewing a random, representative sample of MRDD recipients who receive medications. This review includes the review of medication administration and tracking medication errors. A statewide plan will be implemented based on this pilot procedure July 2007.