

Frequently Asked Questions Regarding Informed Consent to Psychotropic Medication

At this point, planning is under way within each Region for training to be conducted at upcoming regularly scheduled Regional Provider meetings. Regional Offices will notify Providers and Support Coordination agencies of these events as they are confirmed. Region 4 has scheduled item to be added to the agenda of their Provider meeting on 8/14 in Thomasville and Region 2 has scheduled their event for 9/11. If you have any questions or concerns, please do not hesitate to contact your regional office's Regional Coordinator or Regional Service Administrator for Developmental Disabilities.

1. Do Day Service providers have to have Informed Consent on file even if they do not supervise the self administration of medications?

If a Day Service provider is not overseeing/assisting administration of medications or is not involved with escorting individual to an appointment with a psychiatrist/physician, there seems to be no purpose in that provider having a copy of Informed Consent on file. However, if an individual is on psychotropic medications, it would be expected that the Day Service provider be aware of the side effects and any negative reactions associated with the medications and know how to monitor for and respond to such.

2. If the Day Service provider does not have an informed consent on file, and has shown reasonable attempts to obtain one, would the PA be held? Providers in one DBHDD Region have been informed that PA's would be held, if an Informed Consent was not present.

The Provider assisting the individual with the medical appointment is responsible for obtaining a copy of the Informed Consent documentation from the psychiatrist/physician. If the Day Provider is not assisting/overseeing administration of medications or assisting with appointment as described above, the Day Provider would not be expected to keep a copy of Informed Consent documentation on file. It is recommended that the Day Provider meet with the Region Office to discuss the justification, if any, for holding a PA in that circumstance. If the Day Provider is assisting with the medical appointment and has documentation of ongoing, but unsuccessful attempts to get a copy of Informed Consent documentation from the psychiatrist, there would not seem to be a justification for holding a PA. Again, it is recommended the Day Provider meet with the Region Office to discuss the justification, if any, for holding a PA in that circumstance.

3. Please provide some parameters around when the consent needs to be obtained again.

Consent needs to be obtained for each medication, at least annually. If a new medication is added to the regimen, Consent needs to be obtained for that medication. If a medication is increased by amount, dose, or frequency, it is recommended that a new consent be obtained for that medication. Typically, a new consent would not be needed when a medication is discontinued or decreased in amount, dose, or frequency.

4. Does the consent require an annual update? Perhaps at the person's annual physical?

As noted above, consent should be obtained at least on an annual basis.

5. What is the purpose of the Informed Consent? Most people without developmental disabilities are not required to sign an Informed Consent.

Informed Consent is a right, not a requirement. A proper Informed Consent process provides documentation of efforts to honor and protect an individual's fundamental right to refuse or consent to medical treatment. A "higher standard" is justified in this case as individuals with developmental disabilities are often more vulnerable and less able to exercise their rights than people without developmental disabilities. In addition, psychotropic medications tend to have a greater degree of risk associated with them, making informed consent to treatment even more imperative.

6. What if the physician refuses to make the call and to document as to the capability of the person for informed consent?

DBHDD cannot create Guidelines or a Policy that dictates to private physicians regarding their practice of medicine. DBHDD can communicate its expectations and ensure those expectations are consistent with GA Medical Consent Law. The Provider can and should seek assistance from Support Coordinators and staff at the Regional Office to engage the physician and discuss her/his reluctance to document the individual's capacity (or lack of) for informed consent. If the physician continues to refuse to comply with this expectation, the individual/family may want to consider finding another physician. A Provider should seek legal advice before considering any other actions regarding the physician's refusal.

7. Do Informed Consent requirements only apply to person's receiving community residential services; does that include CLS?

If the Provider assists the individual with the medical appointment or oversees/assists the individual with administration of medication, the Provider should get a copy of Informed Consent documentation from the physician.

8. If the individual receives Residential services from one provider and Day services from a different provider, is the Day provider required to have informed consent documented in their record as well?

See the response to question #1 above.

9. Is the Residential provider required to have a separate Informed Consent document for each psychotropic medication the individual is prescribed? In other words, if four psychotropic medications are prescribed will the provider need four separate documents or can all four medications be listed on one document?

Either method is acceptable.

10. They note several times that it must be documented the treating physician has seen the individual and documented their ability to consent to treatment. I'm wondering if this must be documented in a separate form. We use the physician's progress note for informed consent,

with the physician's signature. I'm sure that works but I wonder if they want this documented some way.

There is no required format per se. While the Department will provide a sample form which includes a Capacity to Consent section on the form, either method is acceptable.

11. Is the Provider Agency expected to sign the Informed Consent document for the individual if the individual does not have the capacity to give Informed Consent?

No. The Provider Agency is not responsible for signing the Informed Consent document for the individual or for obtaining a signature from the individual. Informed Consent is a process that takes place between the treating physician and the individual receiving treatment (or the individual's substitute decision maker). The Provider Agency is responsible for getting a copy of the Informed Consent documentation from the physician or individual and maintaining it in the record.