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Reference Number:	368-01-DD
Title of Document:	Individual Service Delivery Records Management
Date of Issue:	February 1, 1995
Effective Date:	February 1, 1995
Last Review Date:	April 16, 2014
Date of Last Revision:	April 16, 2014 **(REVISED)**
Applicability:	DDSN Autism Division, DDSN Regional Centers, DSN Boards and Contracted Service Providers

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PURPOSE:

This directive establishes the agency's policy regarding the management of records relating to people receiving services through the South Carolina Department of Disabilities and Special Needs (DDSN) and its network of service providers.

Records are maintained to provide complete and accurate information and for continuity of care, treatment, and training. The record will contain sufficient information to clearly identify the person, justify the diagnosis, reflect assessment of needs/goals, establish a plan for implementation of care, including training, treatment, and/or community services/supports, and accurately document results of implementation of the plan of care. In addition to complete and accurate documentation, the record will be readily accessible and systematically organized to facilitate retrieving and compiling information. It will be properly secured to ensure confidentiality for the consumer as well as their family.

For DDSN's policy regarding confidentiality of records, please reference DDSN Directive 167-06 DD: Confidentiality of Personal Information.

TYPES OF RECORDS

1. Active records - records of consumers who are actively receiving services through DDSN or a provider in the agency's network.

2. Inactive records - records of people/consumers who have been deemed to be ineligible for services, or were receiving services and have since been discharged out of DDSN or to another provider within DDSN's provider network, or are deceased.

TYPES OF DOCUMENTS

1. Vital documents - documents required by DDSN standards, other regulatory standards, or by law to be kept in the record until the end of the designated retention period or until any legal action(s) are completed (whichever is longer). Vital documents may include, but are not limited to the Service Agreement, DDSN eligibility determination, contact/service/progress notes, service/treatment/program/support plans, Medical Necessity Statements, documentation of service delivery, service authorizations, signed consent forms, Level of Care Determination Forms and signed Freedom of Choice Forms. Vital documents among DDSN service delivery records most often fall into three categories.

    a. Fiscal: These documents hold information that supports the expenditure of funds. These funds may be public funds or private funds, including those belonging to the individual.

    b. Legal: These documents give evidence which addresses the legal rights of the consumer receiving services, obligations of DDSN to the consumer, or compliance with relevant laws and regulations.

    c. Health: These documents record the current health status of the consumer, care and treatment currently received or needed, and significant health history.

2. Non-vital documents - supporting information that should be destroyed when no longer needed for reference (Non-vital documents may include, but are not limited to, activity schedules, clothing inventories, computer system printouts, training programs, and copies of vital documents known as convenience copies made for short term use.)

RECORD CATEGORIES

Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)

(ICF/IID) Residential [includes short-term admissions]

NON-ICF/IID

1. Non-ICF/IID Residential [Residential examples are Community Training Homes (CTH), Supervised Living Programs (SLP), and Community Residential Care Facilities (CRCF).]

2. Day Programs [Day Program examples are Supported Employment, Child Development, Adult Activity Centers, and Sheltered Workshop.]

3. Family Support/Case Management [Family support/case management examples are Service Coordination, Respite, and Early Intervention.]

RECORDS MANAGEMENT AND ACCOUNTABILITY

Agency-wide responsibility for management of and accountability for the records of DDSN is assigned to the DDSN Records Officer.

Each service provider will assign the responsibility for management of and accountability for both paper and electronic records to one person. This records manager will be held accountable for maintaining the records according to DDSN policy and according to the requirements of regulatory agencies and must be given the authority to manage their use.

Original records for anyone evaluated for services or for consumers receiving services will be maintained by the service provider and **must be available during normal business hours** for review by all authorized persons. If electronic documents are required for review/audit, access to the information must be provided. Copies of records, not original records or sole copy records should be used when those records are required in places other than the service provider's location or service provider's authorized locations so as to reduce the possibility of loss.

Service Providers must have a policy to ensure that records are available as required and to ensure that adequate security safeguards are in place for all work settings to prevent loss or unintended destruction of the contents of records. The policy must require a periodic accounting no less than bi-annually, of active consumer records (not each individual document); stipulate the manner and frequency with which this accounting will occur; require documentation of the results of the accounting; and indicate circumstances in which an unscheduled partial or total accounting of records will be conducted, such as upon termination of a caseworker.

Because records include confidential protected health information and/or confidential educational documents, any active or inactive record that cannot be made available in its entirety as stated above, will be considered a lost record and therefore represents an unauthorized disclosure of information. Should this happen, the provider must:

- Report the loss of the record or document immediately to the provider's HIPAA Privacy Officer. This person will then immediately telephone or email a brief report of the loss to DDSN's Privacy Officer. This brief report will then be followed by a detailed written report of the loss to the DDSN Privacy Officer. This written report should use the attached form identified as Attachment A: Record/Document Loss Report or the report

should provide the same content. Together, these Privacy Officers are responsible for communication about and coordination of an appropriate response to the loss of the record. If the lost record is a Medicaid recipient's active record or inactive record for which the required record retention for Medicaid records has not been exceeded, DDSN will report the loss to South Carolina Department of Health and Human Services (DHHS).

- Notify the service recipient/legal guardian upon direction of DDSN. Documentation of this notification must be retained and be available in the service recipient's remaining or reconstructed case record.

Records should only be removed or destroyed in accordance with this policy. Failure to fully comply with this policy could result in disciplinary and/or legal action.

STORAGE, FILING AND RETRIEVAL

All records will be kept in a secure manner and stored so that information contained in the records is kept confidential and safe from damage or destruction. Active records should be kept at a location which allows ready access by agency staff, DDSN staff and other entities with a legal right to access. Inactive records should be stored in a central location by the service provider until the end of the retention period. Inactive records may be recorded using some suitable media approved by DDSN to facilitate their security and/or to reduce required storage space.

ANNUAL REVIEW AND PURGING

Active records should be reviewed annually and all superseded documents and/or those no longer needed for reference should be moved from the working files to the holding files at the central storage site referenced above.

Inactive records will be reviewed annually and destroyed according to the current retention and disposition schedules. Any non-vital documents not previously destroyed should be destroyed as well.

RECORDS RETENTION AND DISPOSITION

The retention and disposition schedules of service delivery records are established with the SC Department of Archives and History through the Office of Information Technology at the Central Office of DDSN. The retention and disposition schedules for electronic service records are the same as those for paper records. As part of this process of establishing retention and disposition schedules, a records inventory determines which service delivery records are considered to be vital documents. Retention periods are based on DDSN standards as well as requirements of regulatory and relevant state and federal law. The goal of the retention and disposition schedules is to insure that records are retained long enough to meet all the requirements for audit and reference, yet be disposed of in a timely manner to reduce document

handling and storage. Strict adherence to retention and disposition schedules is necessary for appropriate records management and will be monitored by DDSN's Internal Audit Department.

Per South Carolina Department of Health and Environmental Control (DHEC) regulations, ICF/IIDs must retain all medical records for ten (10) years after the consumer's death or discharge; or the end of the provider's contract period with DDSN. If any litigation, claim, or other action involving the records has been initiated prior to the expiration of the ten (10) year period, the Provider will retain the records until the completion of the action and resolution of all issues which arise or until the end of the ten (10) year period whichever is later.

Per DDSN standards and/or contracts and/or DHHS regulations and/or DHEC regulations, Community Residential Care Facilities, Community Training Homes, Supervised Living Programs; Adult and/or Child Day Programs; Early Intervention and Service Coordination providers must retain all vital documents for six (6) years after the consumer's death or discharge; or the end of the provider's contract period. If any litigation, claim, or other action involving the records has been initiated prior to the expiration of the six (6) year period, the Provider will retain the records until the completion of the action and resolution of all issues which arise from it, or until the end of the six (6) year period (whichever is later).

TEFRA MEDICAID RECORDS

DDSN is from time to time requested by DHHS to make an ICF/IID Level of Care (LOC) determination on behalf of persons applying for Medicaid eligibility under the category known as TEFRA (a reference to the Tax Equity and Fiscal Responsibility Act of 1982. These persons may or may not be eligible for DDSN services.

For persons who are not DDSN eligible and are not applying for DDSN eligibility, copies of records gathered to make their Level of Care determination must be retained for 90 days after the Level of Care decision by the Consumer Assessment Team or until any appeal of a Medicaid eligibility denial has ended whichever is later. When this retention period has ended, these records should be destroyed in a manner such that the personal health information is unreadable.

For persons who are DDSN eligible or are seeking DDSN eligibility, records that are gathered for the Level of Care determination should be managed in accordance with this directive. Any reports and documents gathered for the Level of Care determination and that were not previously a part of the primary case record should be retained.

RECORDS MANAGEMENT AT TRANSFER AND DISCHARGE OF CONSUMERS

A. For the purposes of this document, "Transfer" involves the relocation of a consumer:

- from an ICF/IID residence to another ICF/IID residence within the same license and certified area; or
- from any program or service unit to any other program or service unit within the provider's territorial/program/contractual limits; and

- ICF/IID and Non ICF/IID transfers require all records to be relocated with the consumer being served to the receiving residence, program, or service.

B. For the purposes of this document, "Discharge" occurs when a consumer is relocated under any of the following situations:

- from one ICF/IID license to another ICF/IID outside of a licensed or certified area;
- from an ICF/IID to a non-ICF/IID program or service;
- from any program or service where the need for intervention with the consumer and or their family is no longer required because:
  - The consumer moves out of the provider's program;
  - The consumer no longer requires services;
  - The consumer dies.

ICF/IID and CRCF Records:

When a consumer moves from one licensed (by DHEC) facility within the DDSN/Provider network to another facility, the original residential record shall follow the consumer. In addition to a copy of the original record, the sending provider is required to maintain documentation of where the consumer was moved and date of the move; last known home address, birth date, place of birth and social security number. If the receiving provider notes that documents are missing from the record, it will notify the sending provider in writing, request that the missing documents be forwarded and document this action in the consumer's record. If the sending provider has those documents, they will be forwarded immediately. If the sending provider is unable to locate those documents, they will be considered lost and actions required under **RECORDS MANAGEMENT AND ACCOUNTABILITY** will be initiated.

When the consumer leaves or relocates from a DDSN/Provider network facility to a location outside of the DDSN/Provider network, the last DDSN/Provider facility shall retain the consumer's original records and forward copies to the receiving facility.

All Other Records:

When a consumer moves within the DDSN/Provider network, the original record shall follow the consumer; in addition to a copy of the original record, the sending facility is required to maintain documentation of where the consumer was moved and date; last known home address, birth date, place of birth and social security number. If the receiving provider notes that documents are missing from the record, it will notify the sending provider in writing, request that the missing documents be forwarded and document this action in the consumer's record. If the sending provider has those documents, they will be forwarded immediately. If the sending provider is

missing from the record, it will notify the sending provider in writing, request that the missing documents be forwarded and document this action in the consumer's record. If the sending provider has those documents, they will be forwarded immediately. If the sending provider is unable to locate those documents, they will be considered lost and actions required under **RECORDS MANAGEMENT AND ACCOUNTABILITY** will be initiated.

When the consumer leaves or relocates outside of the DDSN/Provider network, the DDSN/Provider facility shall retain the consumer's original records and forward copies to the receiving facility. The confidentiality of, access to, release of, and retention of education records (as defined by the most current regulations of the Individuals with Disabilities Act (IDEA), including those created by DDSN or a qualified DDSN provider, are governed by the Family Education Rights and Privacy Act (FERPA), 34 CFR Part 99.

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(Originator)

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State Director
(Approved)

To access the following attachments, please see the agency website page "Attachments to Directives" under this directive number.

Attachment: Record/Document Loss Report