**Section 120.100 Overview** **of rights**

a) Observation and protection of rights of Individuals

1) The observation and protection of rights of Individuals receiving developmental disability services in the public and the private sector as set forth in Chapter 2 of the Code, except that the use of Seclusion will not be permitted, are applicable to all Sections of this Part.

2) Individuals receiving HCBS Waiver services must be free from:

A) Abuse, neglect, and financial exploitation, pursuant to 59 Ill. Adm. Code 50.10.

B) Seclusion and coercion.

C) Restraint (other than what is allowed and directed pursuant to statutes and administrative rules applicable to the program (i.e., 59 Ill. Adm. Code 115, 59 Ill. Adm. Code 119, 89 Ill. Adm. Code 401, 89 Ill. Adm. Code 403, 89 Ill. Adm. Code 384, 210 ILCS 35/18, and 77 Ill. Adm. Code 370).

3) Service providers shall ensure that Individuals, guardians, and others designated by the Individual receive a complete explanation of their rights, as documented in the IL 462-1201 form, and responsibilities at the time of service initiation, annually thereafter, and on request.

4) The ISC shall complete the Rights of Individuals form (IL 462-1201) with Individual and/or guardian signing the document at the time of service initiation, annually thereafter, and on request.

5) The justification for any restriction of Individual's HCBS Waiver rights, as indicated in Section 120.70(e)(6)(A) through (E), shall be:

A) Documented in the Individual's Personal Plan and Implementation Strategy pursuant to Section 120.160.

B) Reviewed and approved by the provider agency's Human Rights Committee before the restriction is implemented.

6) An Individual's confidentiality shall be governed by the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].

b) Non-discrimination

In accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d (2009)), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794 (2015)), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 through 12213 (2008) and 47 U.S.C. 225 and 611 (2010)) and the regulations at 45 CFR 80 (2005) and 45 CFR 84 (2010), the Department assures that no Individual shall be subjected to discrimination under this Part on the grounds of race, color, sex, religion (creed), gender identity, gender expression, age, national origin (ancestry), ethnicity, disability, marital status, sexual orientation, or military status.

c) Confidentiality of case information

For the protection of Individuals, any information about an Individual or case is confidential and may be used only for purposes directly related to the administration of the Medicaid HCBS Waiver Programs. The Department and service providers shall inform all entities to whom information is furnished that this material is confidential, subject to the provisions of the Confidentiality Act, and shall be so considered by the entity. An authorization for release of information shall be used to secure the Individual's or guardian's consent to share information.

d) Notice of action. Individuals requesting or receiving HCBS Waiver services have the right to:

1) A written notice of:

A) Denial of clinical eligibility by the Division or an ISC agency;

B) Denial of service(s) by the Division; and

C) Reduction, suspension, or termination of HCBS Waiver services by the Division or a provider agency.

2) Appeal the decision disposition (reduction, suspension, termination, or denial of HCBS services) pursuant to Section 120.110.

(Source: Amended at 48 Ill. Reg. 5279, effective March 21, 2024)