

## Rights and responsibilities

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<b>Legal authority</b>	<a href="#">CMS-approved state plan amendment – 2017 (PDF)</a> , <a href="#">CMS-approved state amendment – 2018 update (PDF)</a> , <a href="#">CMS-approved state plan amendment – 20 update (PDF)</a> , <a href="#">CMS-approved state plan amendment – 2022 update (PDF)</a> , <a href="#">Minn. Stat. §256B.0949</a>	
<b>Definitions</b>	<p><b>Agency:</b> A legal entity enrolled with Minnesota Health Care Programs (MHCP) as a Medical Assistance (MA) provider, according to <a href="#">Minnesota Rules, part 9505.0195</a>, to provide EIDBI services. This includes an individual licensed professional who practices independently and acts as an agency. The agency is legally responsible to make sure its employees provide EIDBI services according to all applicable laws.</p> <p><b>Legal representative:</b> The parent of a child younger than age 18, a court-appointed guardian or other representative with legal authority to make decisions about services for a person.</p> <p><b>Other representative with legal authority to make decisions:</b> A health care agent or an attorney-in-fact authorized through a health care directive or power of attorney.</p>	
<b>Overview</b>	<p>All people who receive EIDBI services and their legal representatives have rights and responsibilities, as listed on <a href="#">EIDBI – Your Rights and Responsibilities, DHS-7645A (PDF)</a>. EIDBI provider agencies and their staff also have responsibilities to the people to who receive services, as listed on <a href="#">EIDBI – Provider Agency Responsibilities, DHS-7645B (PDF)</a>. To ensure each person and legal representative receives the best services possible, it is important that the:</p> <ul style="list-style-type: none"> <li>• Person and legal representative understand both their rights and responsibilities and the provider agency’s responsibilities to them.</li> <li>• Provider agency understands its responsibilities to the person and legal representative.</li> </ul> <p>The provider agency must review the rights and responsibilities with the person and their legal representative before services begin and at least every year thereafter. The provider agency gathers the signature of the person/legal representative to acknowledge the person/legal representative understands and agrees.</p> <p><b>Note:</b> Only people who can consent to treatment and make legal decisions can sign the forms. This may not include all caregivers. Providers must ensure the person who signs the forms has the legal authority to do so.</p>	
<b>Rights and responsibilities of people who receive services</b>	<p>The person and legal representative have the right to:</p> <ol style="list-style-type: none"> <li>1. Be protected as defined under the health care bill of rights (<a href="#">Minn. Stat. §144.651</a>).</li> <li>2. Choose an advocate to be present in all aspects of the person’s services at the request of the legal representative.</li> <li>3. Be informed of the: <ul style="list-style-type: none"> <li>• Agency’s policy on assigning staff to a person.</li> <li>• Opportunity to observe the person while they receive services.</li> <li>• Services in a manner that respects and considers the culture, values and preferences of the person and legal representative.</li> </ul> </li> <li>4. Be free from seclusion and restraint, except for emergency use of manual restraint (refer to emergency use of manual restraint section).</li> <li>5. Be supervised by a responsible adult at all times.</li> </ol>	

	<p>6. Be notified by the agency within 24 hours if an incident occurs or the person is injured while receiving services, including what occurred and how agency staff responded to the incident.</p> <p>7. Request a voluntary coordinated care conference (refer to <a href="#">EIDBI – Coordinated care conference</a>).</p> <p>8. Request a comprehensive multi-disciplinary evaluation (CMDE) provider of the person’s or legal representative’s choice.</p> <p>9. Be free from all prohibitions, punishment, restraint, etc., as defined in the positive supports rule (<a href="#">Minn. R. 9544.0060</a>).</p> <p>For a complete list of the rights and responsibilities of people who receive services, refer to <a href="#">EIDBI – Your Rights and Responsibilities, DHS-7645A (PDF)</a>.</p>
<p><b>Responsibilities of provider agencies</b></p>	<p>An agency delivering EIDBI services must:</p> <ol style="list-style-type: none"> <li>1. Enroll as an MHCP provider and meet all applicable standards and requirements. For more information, refer to <a href="#">MHCP Provider Manual – EIDBI provider enrollment</a>.</li> <li>2. Demonstrate compliance with federal and state laws for EIDBI services that prohibit providers from: <ul style="list-style-type: none"> <li>• <a href="#">Billing recipients</a> for missed appointments or service termination.</li> <li>• Offering incentives to families.</li> </ul> </li> <li>3. Verify and maintain records of a service provided to the person or legal representative.</li> <li>4. Demonstrate that, while enrolled or seeking enrollment as an MHCP provider, the agency did not have a lead agency contract or provider agreement discontinued because of a fraud conviction.</li> <li>5. Have established business practices, including: <ul style="list-style-type: none"> <li>• Written policies and procedures.</li> <li>• Internal controls.</li> <li>• A system that demonstrates the agency’s ability to deliver quality EIDBI services.</li> </ul> </li> <li>6. Have an office located in Minnesota or a border state of Iowa, North Dakota, South Dakota or Wisconsin and provide MHCP EIDBI services to eligible people.</li> <li>7. Comply with all background study requirements, including those in <a href="#">Minn. Stat. §245C</a>. For more information, refer to <a href="#">DHS – EIDBI background studies</a>.</li> <li>8. Comply with any data requests.</li> <li>9. Provide training for all agency staff on the requirements and responsibilities listed in <a href="#">DHS – Mandated reporter resources</a> and the <a href="#">Vulnerable Adult Protection Act</a>, including: <ul style="list-style-type: none"> <li>• Mandated and voluntary reporting.</li> <li>• Non-retaliation.</li> <li>• The agency’s policy for all staff on how to report suspected abuse, neglect and maltreatment.</li> </ul> </li> <li>10. Have a written policy to resolve issues collaboratively, when possible, and share the policy with the person and their legal representative. <b>Note:</b> The policy must include a timeline for when the person and legal representative will be notified about issues that arise during service delivery.</li> <li>11. Provide the person’s legal representative with prompt notification if the person is injured or if an incident report is completed for any reason</li> </ol>

	<p>while being served by the agency. Note:</p> <ul style="list-style-type: none"> <li>• The agency staff member who provided the service must complete an incident report (refer to <a href="#">EIDBI – Health service records – Incident reports</a>).</li> <li>• The agency must keep a copy of the incident report on file for at least five years from the report of the incident.</li> </ul> <p>12. Provide the person or legal representative with a description of the treatment modality the person will receive before they start the service. This includes the staffing certification levels and training of staff who will provide the treatment (refer to <a href="#">EIDBI – Treatment modalities</a>). For a complete list of provider agency responsibilities, refer to <a href="#">EIDBI – Provider Agency Responsibilities, DHS-7645B (PDF)</a>.</p>
<p><b>Compliance and program integrity guide</b></p>	<p><a href="#">EIDBI Compliance and Program Integrity Guide, DHS-8632 (PDF)</a> is a comprehensive resource for EIDBI providers. By following the practices and guidelines in the guide and integrating these strategies into their workflow, providers can:</p> <ul style="list-style-type: none"> <li>• Meet compliance standards and regulatory expectations.</li> <li>• Uphold program integrity.</li> <li>• Make sure their services align with MHCP requirements and EIDBI policies and procedures.</li> <li>• Sustain excellence and accountability in their service delivery.</li> </ul> <p>To maintain compliance and deliver high-quality services, providers must:</p> <ul style="list-style-type: none"> <li>• Conduct regular internal reviews.</li> <li>• Keep organized, up-to-date records across all operational areas.</li> </ul>
<p><b>Required health and safety standards</b></p>	<p>DHS recommends provider agencies review the following resources about required health and safety standards.</p> <p><b>Department of Labor and Industry standards</b></p> <p>The <a href="#">Minnesota Department of Labor and Industry (DLI)</a> ensures Minnesota work and living environments are equitable, healthy and safe. For information on construction codes and licensing, occupational safety and health, wage and hour standards and workers’ compensation, refer to <a href="#">DLI</a>.</p> <p><b>Minnesota Occupational Safety and Health Administration (MNO SHA) program</b></p> <p>The MNOSHA state-plan program is approved by federal Occupational Safety and Health Administration (OSHA) and protects workers at private and public worksites. The program has two parts:</p> <ul style="list-style-type: none"> <li>• <a href="#">MNOSHA Compliance</a>.</li> <li>• <a href="#">MNOSHA Workplace Safety Consultation</a>.</li> </ul>
<p><b>Communicating rights and responsibilities</b></p>	<p>When the EIDBI provider agency delivers the person’s initial individual treatment plan (ITP) and annually thereafter, the EIDBI provider agency must:</p> <ul style="list-style-type: none"> <li>• Print copies and give verbal explanations of <a href="#">DHS-7645A (PDF)</a> and <a href="#">DHS-7645B (PDF)</a> to each person who receives services or legal representative. These forms also are available in:  Hmong (<a href="#">DHS-7645A-HMN [PDF]</a> and <a href="#">DHS-7645B-HMN [PDF]</a>)  Karen (<a href="#">DHS-7645A-KAR [PDF]</a> and <a href="#">DHS-7645B-KAR [PDF]</a>)  Mandarin (<a href="#">DHS-7645A-CMN [PDF]</a> and <a href="#">DHS-7645B-CMN [PDF]</a>)  Oromo (<a href="#">DHS-7645A-ORM [PDF]</a> and <a href="#">DHS-7645B-ORM [PDF]</a>)  Russian (<a href="#">DHS-7645A-RUS [PDF]</a> and <a href="#">DHS-7645B-RUS [PDF]</a>)  Somali (<a href="#">DHS-7645A-SOM [PDF]</a> and <a href="#">DHS-7645B-SOM [PDF]</a>)</li> </ul>

	<ul style="list-style-type: none"> <li>• Spanish (<a href="#">DHS-7645A-SPA [PDF]</a> and <a href="#">DHS-7645B-SPA [PDF]</a>) Vietnamese (<a href="#">DHS-7645A-VIE [PDF]</a> and <a href="#">DHS-7645B-VIE [PDF]</a>)</li> <li>• Have the person or legal representative sign and date both DHS-7645A and DHS-7645B to acknowledge the person/legal representative understands and agrees.</li> <li>• Document in the person's file the date the person or legal representative received a copy and explanation of the person's or legal representative's rights and the agency's responsibilities.</li> <li>• Make reasonable accommodations to provide the information in another format or language, as needed, so the person and legal representative can understand their rights and the agency's responsibilities.</li> </ul>
<p><b>Emergency use of manual restraint</b></p>	<p>People who receive EIDBI services must be free from seclusion or the use of manual restraints, except for the use of emergency manual restraints. Emergency use of manual restraint must be used only when:</p> <ul style="list-style-type: none"> <li>• A person poses an immediate risk of physical harm to self or others.</li> <li>• It is the least restrictive intervention to achieve safety.</li> </ul> <p>The following does <b>not</b> constitute an emergency:</p> <ul style="list-style-type: none"> <li>• Property damage.</li> <li>• Verbal aggression.</li> <li>• A person's refusal to receive or participate in treatment or programming on their own.</li> </ul> <p>If emergency restraints are necessary, the EIDBI provider agency must:</p> <ol style="list-style-type: none"> <li>1. Only implement the procedure in the least restrictive manner.</li> <li>2. Return the person to a non-restricted environment or activity while ensuring the safety of the person and others from risk of physical harm.</li> <li>3. Notify the person's legal representative on the same day the procedure was used.</li> <li>4. Document use of the emergency restraint in the person's case notes, including: <ul style="list-style-type: none"> <li>• What happened before the restraints were used.</li> <li>• Why less intrusive measures failed or were not used.</li> <li>• The time the procedure began and ended.</li> </ul> </li> </ol>
<p><b>Cultural and language access</b></p>	<p>The person's primary language spoken at home, culture, values, goals and preferences must be reflected throughout the covered services. The CMDE provider and qualified supervising professional (QSP) must:</p> <ul style="list-style-type: none"> <li>• Determine how to adapt the evaluation, treatment recommendations and ITP to align with the person and their legal representative's culture, values and language preferences.</li> <li>• Have a Limited English Proficiency (LEP) plan that complies with <a href="#">Title VI of the Civil Rights Act of 1964</a>.</li> <li>• Offer communication and language assistance that complies with the <a href="#">National Standards for Culturally and Linguistically Appropriate Services (CLAS)</a>, as published by the U.S. Department of Health and Human Services.</li> </ul>
<p><b>Background studies</b></p>	<p>All EIDBI agencies and providers must meet background study requirements, including those in <a href="#">Minn. Stat. §245C</a>, before they provide and bill for any service. For more information, refer to <a href="#">DHS – Background studies</a>.</p>

	<p><b>Note:</b> Rendering providers who do not have background study documentation on file are subject to monetary recovery of claims billed.</p>
<b>Provider standards and qualifications</b>	<p>There are five provider types eligible to deliver EIDBI services. For more information, refer to <a href="#">EIDBI – Overview of EIDBI providers</a>.</p> <p><b>Contracted or temporary staff</b> If a provider agency uses contractors and/or temporary staff (e.g., interns), it should ensure all staff members meet and maintain compliance with all requirements applicable to the service(s) they will provide. In addition to the background study requirement, DHS recommends agencies also use the following as guidelines:</p> <ul style="list-style-type: none"> <li>• EIDBI provider qualifications (refer to <a href="#">EIDBI – Overview of EIDBI providers</a>).</li> <li>• Licensing requirements.</li> <li>• Orientation and training (refer to <a href="#">EIDBI – Overview of training for EIDBI providers</a>).</li> <li>• Supervision necessary to fulfill the provider’s responsibilities (refer to <a href="#">EIDBI – Clinical supervision</a>).</li> </ul> <p>The provider agency must maintain documentation that each contractor or temporary staff meets the applicable requirements. All QSPs, level I, II and III providers must be employed by an EIDBI agency.</p> <p><b>Volunteers</b> If the provider agency uses volunteers to provide direct-contact services, it must:</p> <ul style="list-style-type: none"> <li>• Ensure each volunteer completes a background study and receives an eligible or set-aside result before they have direct contact with a person receiving services.</li> <li>• Ensure each volunteer receives the orientation, training and supervision necessary to fulfill the volunteer’s responsibilities.</li> <li>• Inform the person or legal representative whenever a volunteer works with the person.</li> <li>• Maintain documentation that each volunteer meets the applicable requirements.</li> </ul>
<b>Health service records</b>	<p>The EIDBI benefit is a medical service, and therefore, the EIDBI provider agency must keep a health service record for every person it serves. For more information, refer to <a href="#">EIDBI – Health service records</a>.</p>
<b>Clinical supervision</b>	<p>Clinical supervision is required in EIDBI treatment. For more information, refer to <a href="#">EIDBI – Clinical supervision</a>.</p>
<b>Appeals</b>	<p>The person and legal representative have the right to file an appeal.</p> <p><b>Person and legal representative</b> For information about the appeals process, refer to <a href="#">DHS – Appeals</a> and <a href="#">DHS – Appeals frequently asked questions</a>.</p> <p><b>Providers</b> DHS recommends providers give the person and legal representative information about filing an appeal. For provider-related information about the appeals process, refer to <a href="#">CBSM – Appeals</a>.</p>
<b>Additional resources</b>	<p><b>Information about DHS programs</b> <a href="#">DHS – Child protection, foster care, adoption: Program overviews</a> <a href="#">DHS – Person-centered practices</a></p> <p><b>Legal resources</b> <a href="#">Mid-Minnesota Legal Aid – Minnesota Disability Law Center (MDLC)</a> <a href="#">MHCP client rights and responsibilities</a></p>

	<p><a href="#">The Office of Ombudsman for Mental Health and Developmental Disabilities</a> <a href="#">Client rights</a> <b>Resource networks for people with disabilities</b> <a href="#">Disability Hub MN</a> <a href="#">Minnesota Aging and Disability Resources</a></p>
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