

Chapter RSA 171-A

The Law at the Root of Rights for Citizens with Developmental Disabilities and Their Families

Did you know . . . that back in 1975, the NH State Legislature passed a law that established the service system for individuals with developmental disabilities ? This law is known as RSA 171-A and lays the groundwork for the system, which we know today. In this time of great change in New Hampshire, as the Bureau of Developmental Services (BDS) moves forward with the systems work and waiver redesign activities, it is vital that families familiarize themselves with the law, which forms the foundation on which everything else has been built.

The purpose of this law . . . is to enable the Department of Health and Human Services (DHHS) to establish, maintain, implement, and coordinate a comprehensive delivery system for people who experience developmental disabilities.

The law is important . . . because it includes *Service Guarantees* wherein people who experience developmental disabilities in New Hampshire are entitled to access. The broad categories of services are over and above the generally understood category of “medical necessity” as it is used in the realm of acute medical care. Service guarantees extend into the areas of daily living, community access, habilitation, rights, and more. Services are not limited within a finite, pre-determined list within the law but are individualized based on the needs of the person, not the desired outcomes of the system.

Key Sections of the Law are as Follows:

- IX. **“Habilitation”** means the process by which program personnel assist clients to acquire and **maintain** those life skills which enable them to cope more effectively with the demands of their own persons and of their environment, to be economically self-sufficient, and to raise the level of their physical, mental, and social efficiency. **Habilitation includes but is not limited to** programs of formal, structured, education, and **treatment**.
- XVI. **Service delivery system** means a comprehensive array of services for the diagnosis, evaluation, **habilitation** and rehabilitation of developmentally disabled persons, **including but not limited to**, service coordination, community living arrangements, employment and day services, and supports to families of individuals with developmental disabilities.
- XVII. **“Treatment”** means the **prevention, amelioration*, and improvement of a client’s disabilities and illnesses**. * *Amelioration - to make better or more tolerable; to grow better.* (Webster’s Ninth New Collegiate Dictionary)

Under Section 171-A:13, *the State offers the following guarantees:*

Service Guarantees - Every developmentally disabled client has a right to adequate and humane habilitation and treatment including such psychological, **medical**, vocational, social, educational, or rehabilitative services as his/her condition requires to bring about an improvement in condition *within the limits of modern knowledge*.

Under this current law, eligible people with developmental disabilities cannot be denied treatments, therapies, etc. that help people have an improved life experience, be more comfortable, prevent a worsening of their condition, or to help them have an easier time in the community. The criterion is *“within the limits of modern knowledge”*, not the narrow definition of **“medical necessity”** or otherwise narrow definitions of services.

This law is a tool for you, your family and your medical providers to use when faced with proposed BDS Systems work changes and or denials of treatments, therapies, etc. by the Managed Care companies. Denials for many things like physical, occupational, and speech therapies that people with disabilities rely on to *live good lives* are often out of compliance with the law. This law is also relevant to all BDS Systems work changes and the waiver redesign.

Know the law. Know your rights.

ALWAYS appeal when you believe a service has been denied improperly. And, when unsuccessful, notify the Disability Rights Center for assistance in filing an appeal or a grievance.

Contact the Disability Rights Center (DRC) with questions and/or concerns about RSA 171-A and/or MCO denials at (603) 228-0432 or visit www.drcnh.org.

To read RSA 171-A visit:

<http://www.gencourt.state.nh.us/rsa/html/xii/171-a/171-a-mrg.htm>