

REQUEST FOR CLARIFICATION/INTERPRETATION

TO:	Name and Title: Jannis Conselyea, DDP Bureau Chief	FROM:	Name and Title: Priscilla Halcro, HBS Director
	Organizational Unit: Developmental Disabilities Program		Organizational Unit: Quality Life Concepts
	Address: P. O. Box 4210 Helena, MT 59604-4210		Address: 215 Smelter Ave. NE, Great Falls, MT 59404

1. TYPE OF REQUEST: Follow-up to Verbal Request - Date of Verbal Request: _____ Written Request

2. STATEMENT OF QUESTION OR ISSUE: A five (5) year old child attends an after school daycare setting. In that setting, a Habilitation Aide is working on programs with him. On 3/1/10, the child bit a staff person and an IR was completed. Written in the IR were statements that read: (a) at snack time he was told to throw his snack garbage away and that he couldn't play with the balls he wanted until he did; and (b) he wanted to exit the grounds of the daycare facility and the staff didn't allow him to exit the grounds. She did this by standing in front of the gate. She did not touch him. Upon review of the IR, children's services were questioned as to whether or not we had protocols in place for the child. We did, but if we didn't there would be two rights violations – not allowing him to play with the balls and not allowing him to exit the facility grounds. Upon consideration for all the programs we run in children's services, I believe that children do not have free will. No child should be allowed to leave a facility regardless of age nor should a child be allowed to get what they want whenever they want it (like the balls). This is how children learn. There are restrictions for every child in all environments to insure they are safe and to insure that learning occurs. This is clearly evidenced based practice.

I am concerned that QLC and other children's providers will have to complete the Rights Restrictions Form for nearly every program written in children's services. In addition, Applied Behavior Analysis is considered evidenced and/or scientifically best practice for children with Autism and children will have to complete a task before a reinforcer is given. This was approved by DDP in the Children's Autism Waiver. The Incident Management Policy is clearly vague for children's providers and was written, for the most part, for adults that certainly have free will. I am seeking clarification on Rights Violations on behalf of all children's providers. Thank you!

References:

3. Administrative Rule 37.34.1404, section 37 "Restriction of rights/privileges means procedures which involve withdrawal, delay or curtailment of rights or privileges which a person may ordinarily exercise"... (As children have limited rights the same rights that would ordinarily apply to adults do not necessarily apply to children.) "Such withdrawal is usually in connection with a program through which the person may exercise such rights and/or privileges by performing specified behaviors." Therefore, according to rule a "rights restriction form" would not be necessary unless the child would ordinarily exercise the specific right being withdrawn.

References:

Approved and Issued by:  (Program Director)
 Date: 4-22-10

STATE USE ONLY	4: DISTRIBUTION: One Copy: _____ Requestor One Copy Manual Coordinator One Copy: _____ Division Files	5: FOLLOW-UP: <input type="checkbox"/> To be issued as Bulletin to: _____ (Division Administrator) Manual. Expected Date of Issuance: _____
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