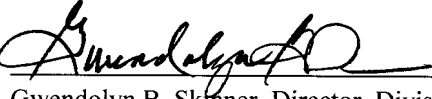


<b>Georgia Department of Human Resources</b> Division of Mental Health, Developmental Disabilities & Addictive Diseases	<b>DHR Online Directive Information System (ODIS)</b> <b>Directive # 6001-501</b> <i>Replaces DMHDDAD Policy #6811.1</i> Page 1 of 4
<b>ODIS Policy:</b> Maintenance of Safety for Division of MHDDAD Consumers and Staff <b>SUBJECT:</b> Verification of lawful presence in United States for individuals seeking MHDDAD Services	
<b>Applicability:</b> Division of MHDDAD Hospitals State-Operated Community Services Community Providers of MHDDAD Services	<b>Original Effective Date:</b> July 1, 2007 <b>Revision Effective Date:</b> July 1, 2008 <b>Approved:</b>
<b>Attachments:</b> Attachment A - MHDDAD Verification Form for Lawful Presence in United States Attachment B - DMHDDAD Criteria for Mental Health Inpatient and Developmental Disability Facility Services Attachment C - Affidavit of Lawful Presence in the United States	 _____ Gwendolyn B. Skinner, Director, Division of MHDDAD  5/24/08 _____ Date

## POLICY STATEMENT

Verification of lawful presence in United States is required for adults seeking MHDDAD Services from DHR hospitals, state-operated community services and/or community providers of MHDDAD services. In accordance with Georgia law, all programs and services receiving funding from the Department of Human Resources Division of Mental Health, Developmental Disabilities & Addictive Diseases or other state, federal or local funds are required to verify that adults who receive **MHDDAD Services** other than **MHDDAD Emergency Services** are lawfully present in the United States.

Verification of lawful presence for those under age 18 is not required; children and adolescents under age 18 who meet Division of MHDDAD criteria for services are served, regardless of whether the child/adolescent is lawfully present in the United States.

**MHDDAD Emergency Services** are provided to adults, children and adolescents without regard to whether they are lawfully present in the United States.

Adults who require **MHDDAD Services** other than **MHDDAD Emergency Services** but whose lawful presence in the United States can not be verified do not qualify to receive **MHDDAD Services** provided by state or federal funds.

## AUTHORITY

O.C.G.A. Section 50-36-1

## DEFINITIONS

**Lawful Presence** – For the purpose of this policy, lawful presence means that the person is a citizen of the United States, or is a non-citizen whose physical presence in the United States is authorized under the immigration laws of the United States. Categories of lawful presence include but are not limited to: citizenship, legal permanent residence, legal temporary residence, visitor with a visa, legal temporary worker, refugee, person with approved asylum status, or temporary protected status from a country of origin under warfare or environmental disaster. The **MHDDAD Verification Form for Lawful Presence in United States** (Attachment A) contains a detailed list of various types of verification.

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**MHDDAD Services** – For the purpose of this policy, **MHDDAD Services** refers to (a) services provided by the Department of Human Resources (DHR) Division of Mental Health, Developmental Disabilities & Addictive Diseases, through its hospitals and state-operated community services, as well as (b) community behavioral health or developmental disabilities services that are fully or partially paid for by funds from DHR Division of Mental Health, Developmental Disabilities & Addictive Diseases via a contract, provider agreement or letter of agreement.

**MHDDAD Emergency Services** – For the purpose of this policy, **MHDDAD Emergency Services** are those services that would be provided to an individual who meets the criteria for inpatient services (as defined in O.C.G.A. 37-3-1(9.1) or 37-7-1(14.1) or 37-4-1(13.1) see ***DMHDDAD Criteria for Mental Health Inpatient and Developmental Disability Facility Services*** (Attachment B), as well as services designed to address needs of consumers who are in emergency situations. For the purpose of this policy, this includes persons whose assessment indicates a LOCUS score of “5” or “6” as well as those whose ASAM score is 3.7 or higher, or persons with developmental disabilities for whom adequate natural supports are not available and whose developmental disability is of such severity that the individual meets the following criteria:

- (1) The individual has mental retardation. OR
- (2) The individual has a severe chronic disability attributable to cerebral palsy or epilepsy. OR
- (3) The individual has a condition (i.e. Autism, Autism-spectrum, Asperger’s or Pervasive Developmental Disorder) *other than mental illness*, which is found to be closely related to mental retardation, is likely to last indefinitely, and requires similar treatment and services.  
AND
- (4) The impairment for those conditions outlined above results in substantial limitations in three or more of the following functional areas:
  - Self-care skills such as feeding, toileting, dressing and bathing;
  - Understanding and use of verbal and non-verbal language in communication with others;
  - Mobility;
  - Self-direction in managing one’s social and personal life and the ability to make decisions necessary to protect one’s self; and/or
  - Ability to live without extraordinary assistance.

## **PROCEDURES**

For adults who are seeking either **MHDDAD Emergency Services** or non-emergency **MHDDAD Services**, the hospital, community provider, or Regional Intake and Evaluation Office completes the following steps:

1. Complete appropriate assessment to determine what **MHDDAD Services** the individual needs.
2. Serve adults requiring **MHDDAD Emergency Services** without regard to lawful presence status. Although lawful presence status is gathered from all those who seek **MHDDAD Services**, the process for acquiring that lawful presence information must not interfere with the individual receiving the **MHDDAD Emergency Services** that he/she requires.

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3. Obtain information regarding both lawful presence as needed for completion of ***MHDDAD Verification Form for Lawful Presence in United States*** (Attachment A)
4. Place the ***MHDDAD Verification Form for Lawful Presence in United States*** and a copy of the individual's document(s) that verify lawful presence in the consumer's clinical record.
5. Record information regarding verification of lawful presence in applicable management information systems (for example, MICP, BHIS/Avatar).

If an individual is unable to provide documents that verify lawful presence but indicates that he/she is in fact lawfully present in the United States, the following steps are completed:

1. The individual or his/her guardian completes and signs an ***Affidavit of Lawful Presence in the United States*** (Attachment C). Notarization of the Affidavit is preferable but is not required by Georgia Law.
2. The ***Affidavit of Lawful Presence in the United States*** is placed in the consumer's clinical record.
3. The MHDDAD Services provider utilizes the federal Systematic Alien Verification for Entitlements (SAVE) program or other program designated by the U.S. Department of Homeland Security, to verify lawful presence, per instructions provided by the federal government or the State of Georgia. Information about SAVE can be obtained from the U.S. Citizenship and Immigration Service website by going to <http://www.uscis.gov> and searching for SAVE.
4. Until eligibility verification is made through the SAVE or other designated program, the affidavit is accepted as verification of lawful presence.

Adults who can not provide verification of lawful presence in the United States and who do not sign an affidavit of lawful presence can not receive **MHDDAD Services** except for **MHDDAD Emergency Services**. However, DHR hospitals, state-operated community services and community providers will attempt to refer such individuals to other programs and services, as available, that do not receive federal, state, or local funding.

#### **ADDITIONAL INFORMATION**

State Hospitals provide emergency services and Individuals in crisis often do not have the required documents with them to verify their legal status. Therefore, hospitals may not have the opportunity to verify legal status prior to referring individuals for outpatient services after discharge from the hospital. Community providers are expected to verify legal status for these individuals just as they would for any new consumer seeking services.

Adults who do not otherwise qualify for **MHDDAD Emergency Services** or **MHDDAD Services** as defined in this policy, but who can pay full fee for behavioral health or developmental disability services from community providers, may receive those services as long as the fees for those services are based on a determination of the cost of the services and are not underwritten or subsidized by state or federal funds. The provider of those services for full fee must maintain documentation of:

1. the cost accounting utilized to determine the fees charged to these persons who have not verified lawful presence in the United States, and
2. the collection of the full fee from those individuals.

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As appropriate, providers of MHDDAD Services offer information to individuals regarding organizations recognized by the Board of Immigration Appeals (BIA) as having enough knowledge and experience to provide services to immigrants and that charge or accept only very small fees for those services. For a list of these BIA-recognized organizations, see <http://www.usdoj.gov/eoir/statspub/recognitionaccreditationroster.pdf>

Information about free legal service providers is also offered to individuals as appropriate. The Office of the Chief Immigration Judge has a list of recognized free legal service providers for people who are in immigration proceedings; see <http://www.usdoj.gov/eoir/probono/states.htm> for Georgia organizations that provide free legal services and/or referrals for such services to indigent individuals in immigration removal proceedings. Some of these organizations may also charge a nominal fee for legal services to certain low income individuals.

# DMHDDAD VERIFICATION CHECKLIST FOR LAWFUL PRESENCE IN U.S.

NAME: \_\_\_\_\_

**Per Georgia Law, an individual's LAWFUL PRESENCE IN THE UNITED STATES must be verified for All Non-Emergency Mental Health, Addictive Diseases & Developmental Disabilities Services provided to adults.** If you are a recipient of SSI or Medicare, further verification is not necessary.

**In order to verify lawful presence in the U.S., please provide one of the following:**

## **Evidence of Citizenship:**

- U.S. Passport
- Certificate of Naturalization (DHS Forms N-550 or N-570).
- Certificate of U.S. Citizenship (DHS Forms N-560 or N-561).
- U.S. birth certificate.
- Certification of birth issued by the Department of State (Form DS-1350).
- Report of Birth Abroad of a U.S. Citizen (Form FS-240).
- Certification of Birth Abroad (FS-545).
- U.S. Citizen I.D. card (DHS Form I-197).
- American Indian Card issued by the Department of Homeland Security with the classification code "KIC."
- Northern Mariana Identification Card.
- Evidence of civil service employment by the U.S. government before June 1976.
- Official military record of service showing a U.S. place of birth.
- Extract of a hospital record on hospital letterhead established at the time of the person's birth that was created 5 years before the initial application date and showing a U.S. place of birth (for children, record must have been created near the time of birth).
- Life or health or other insurance record, which shows a U.S. place of birth that was created at least 5 years before the initial application date (or near time of birth for children).
- Religious record recorded in the U.S. within 3 months of birth showing the birth occurred in the U.S. and showing either the date of the birth or the individual's age at the time the record was made. The record must be an official record recorded with the religious organization. (Entries in a family bible are not considered religious records.)
- Early school record showing a U.S. place of birth. The school record must show the name of the child, the date of admission to the school, the date of birth, a U.S. place of birth, and the name(s) and place(s) of birth of the applicant's parents.
- Federal or state census record showing U.S. citizenship or a U.S. place of birth.
- Institutional admission papers from a nursing home, skilled nursing care facility or other institution and was created at least 5 years before the initial application date and indicates a U.S. place of birth.
- Medical (clinic, doctor, or hospital) record and was created at least 5 years before the initial application date and indicates a U.S. place of birth (for children under 5, record is created near time of birth).
- Other document that shows a U.S. place of birth and that was created at least five years previously such as Seneca Indian tribal census record, a Bureau of Indian Affairs tribal census records of Navajo Indians, a U.S. State Vital Statistics official notification of birth registration, a delayed U.S. public birth record that was recorded more than 5 years after the person's birth, a statement signed by the physician or midwife who was in attendance at the time of birth, and Bureau of Indian Affairs Roll of Alaska Natives.

## **Other Acceptable Evidence of Lawful Presence:**

- "Green Card" for legal permanent residents, Form I-551. The person's passport also may bear a stamp saying "I-551" to document permanent residence Certificate of Indian Blood; US American/Alaska Native tribal document; or Native American Tribal Document
- Visa for a person who is a non-immigrant visiting lawfully
- Employment Authorization Document for lawful temporary workers
- Form I-94 for refugees or persons granted asylum in the US, or a letter or order giving temporary approval status from an immigration judge or border official
- Unrestricted social security card for a refugee or asylee, or person given Temporary Protected Status from a country under warfare or disaster
- "Approval letter" from U.S. Citizenship and Immigration Services (USCIS) or an immigration judge
- Temporary Resident Card, Form I-688 from USCIS

**If you do not have any of the above and you are lawfully present in the United States, please contact your staff of the facility where you are seeking services to complete an affidavit of lawful presence.**



# **DMHDDAD CRITERIA FOR MENTAL HEALTH INPATIENT AND DEVELOPMENTAL DISABILITY FACILITY SERVICES**

## Mental Health Inpatient Services Criteria:

OCGA § 37-3-1(9.1):

"Inpatient" means a person who is mentally ill and:

(A)(i) Who presents a substantial risk of imminent harm to that person or others, as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to that person or other persons; or

(ii) Who is so unable to care for that person's own physical health and safety as to create an imminently life-endangering crisis; and

(B) Who is in need of involuntary inpatient treatment.

## Developmental Disability Facility Services Criteria:

OCGA § 37-4-2(13.1):

"Mentally retarded person requiring temporary and immediate care" means a person who is mentally retarded, and:

(A) Who presents a substantial risk of imminent harm to himself or others;

(B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain developmental, medical, or behavioral needs; and

(C) For whom there currently exists no available, appropriate community residential setting for meeting the needs of the person.

## Addictive Disease Inpatient Criteria:

OCGA § 37-7-1(14.1) "Inpatient" means a person who is an alcoholic, a drug dependent individual, or a drug abuser and:

(A)(i) Who presents a substantial risk of imminent harm to that person or others, as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to that person or other persons; or

(ii) Who is incapacitated by alcoholic beverages, drugs, or any other substances listed in paragraph (8) of this Code section on a recurring basis; and

(B) Who is in need of involuntary inpatient treatment.

**Affidavit of Lawful Presence in the United States**

State of Georgia  
County of \_\_\_\_\_

Personally appeared before the undersigned officer, duly authorized by law to administer oaths in the State of Georgia, \_\_\_\_\_  
(Consumer's name), who after being duly sworn, deposes and states from his/her own personal knowledge as follows:

I hereby do swear or affirm that I am:

(INITIAL ONE blank below as applicable)

\_\_\_\_\_ a United States citizen or legal permanent resident 18 years of age or older,

OR

\_\_\_\_\_ a qualified alien or non-immigrant under the federal Immigration and Nationality Act lawfully present in the United States, and I am 18 years of age or older.

Further affiant sayeth naught.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

**NOTARIZATION IS NOT REQUIRED BY LAW BUT IS PREFERRED.**

Sworn to and subscribed before me this \_\_\_\_\_  
Day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires:

\_\_\_\_\_  
(Notary seal)