

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to real lives.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 19B of the General Laws, as appearing in the 2012 Official
2 Edition, is hereby amended by inserting the following 3 sections:-

3 Section 19. (a) As used in this section and sections 20 and 21, the following words shall
4 have the following meanings:-

5 “Department”, the department of developmental services.

6 “Fiscal intermediary”, a financial management service or fiscal intermediary to assist an
7 individual who self-directs in disbursing funds allocated to an individual in their individual
8 budget and in accordance with their person-centered plan. The intermediary shall work at the
9 direction of the individual or an appointed designee identified in the person-centered plan.

10 “Individual”, an individual eligible to receive services through the department of
11 developmental services.

12 “Individual budget”, a dollar amount for goods, services and supports specified in the
13 person- centered plan that is under the control and direction of the individual.

14 “Person-centered plan”, a plan of service for individuals who elect to participate in self-
15 direction.

16 “Self-determination”, an approach to providing services that underpins a self-direction
17 model of service delivery.

18 “Self-direction”, a model of service delivery in which services and supports are person-
19 centered, person-defined and person-controlled. Self-direction in a service delivery system
20 includes features ensuring that:

21 (1) the individual is central to and directs the decision making process that will determine
22 which supports are utilized;

23 (2) the individual has easy access to information, options, services and supports to enable
24 the individual to self-direct;

25 (3) the service system is flexible so that the individual can tailor their support to meet
26 their unique needs.

27 “Support broker”, a person chosen by an individual participating in self-direction to assist
28 as dictated by the individual in the development and execution of the person-center plan. This
29 role can include but is not limited to adviser, advocate, facilitator and support staff.

30 (b) The department shall establish a self-determination advisory board to evaluate and
31 advise the department on efforts to implement self-direction and to participate in educational
32 outreach efforts on self-direction. The board shall include individuals participating in self-
33 direction, family members of individuals participating in self- direction, providers, service
34 brokers, and representatives of advocacy organizations, including but not limited to: The Arc of
35 Massachusetts, Massachusetts Developmental Disabilities Council, Massachusetts Families
36 Organizing for Change, Massachusetts Advocates Standing Strong, Advocates for Autism of
37 Massachusetts, Massachusetts Down Syndrome Congress, Disability Law Center and the
38 Association of Developmental Disabilities Providers.

39 (c) All persons eligible for services through the department shall be eligible for self-
40 direction, including persons with complex medical or behavioral conditions, persons with
41 profound intellectual impairments and persons eligible for services through special eligibility.

42 (d) The department shall provide information about self-direction to all persons eligible
43 for services through the department upon: (i) the notification to a person of their priority for
44 services; (ii) the beginning of the development of an individual support plan; (iii) the beginning
45 of the renewal of an individual support plan; and (iv) the annual notification of persons who have
46 declined an individual support plan of their option to participate in the individual support plan
47 process.

48 (e) The department shall publish information on self-direction options annually and shall
49 make this information available to the public on the department’s website and shall release any
50 addition information upon request. The department, in collaboration with the advocacy
51 organizations represented on the self-determination advisory board, shall hold educational
52 forums with families and individuals to provide information about self-direction annually in each
53 service region.

54 (f) The department, in collaboration with the advocacy organizations represented on the
55 self-determination advisory board, shall hold meetings annually with providers to discuss self-

56 direction, how providers can participate, what it means to the present purchase of service system,
57 and how the department can work with providers to establish self-directed choices within the
58 service system The department may offer introductory and on-going training to providers and
59 provider staff on the subjects of self-determination, self-direction and the related elements of
60 person-centered planning and individual budgeting.

61 (g)The department shall educate all staff, except for staff classified as janitorial,
62 maintenance, or secretarial, on self-direction annually.

63 (h) For individuals who choose self-direction, the department shall implement a person-
64 centered planning process. The individual shall direct the development of the person-centered
65 plan and select who is involved in the planning process.

66 (i) Individuals who choose to self-direct shall receive an allocation of resources based on
67 their assessed needs. The amount of allocation and development of an individual budget shall be
68 determined through a person-centered plan. The individual or a legal representative designated
69 by the individual shall be able to utilize resources allocated to them through the individual
70 budget to choose which services and supports best serve the individual's needs and are consistent
71 with meeting goals developed in line with a person-centered plan.

72 (j) At the time an individual budget is determined, case managers shall inform the
73 individual that he or she has control over his or her individual budget. The individual shall then
74 have the choice to self-direct services. Case managers shall provide informational materials to
75 individuals as developed by the department about self-direction. Individuals may choose to self-
76 direct all, part, or none of their budget. If the individual declines self-direction in any service
77 need, the individual supports plan procedures will be used to identify the supports needed.

78 (k)(1) Individuals who choose to self-direct shall have access to a support broker to assist
79 in the development of a plan of service and an individual budget in the person-centered planning
80 process, to assist in the purchase of services and to assist in monitoring expenditures through the
81 year. The support broker shall be made available through the department or through a qualified
82 private sector broker of the individual's choice. The department shall establish basic
83 competencies that must be met in order to qualify private sector or public sector support brokers
84 in consultation with the self-determination advisory board. (2) Individuals who choose to self-
85 direct shall have access to a state-designated or other qualified fiscal intermediary of the
86 individual's choice to assist in the execution of the purchase of services. (3) If an individual
87 chooses to utilize a private sector support broker, an allocation for the purchase of this service
88 shall be included in the individual's budget. If an individual chooses to utilize a private sector
89 fiscal intermediary, an allocation for the purchase of this service shall be included in the
90 individual's budget.

91 (l) Individuals who choose to self-direct shall be surveyed at least once annually about
92 their experiences with self-direction and potential improvements to the self-direction model and
93 its overall operation.

94 (m) The department shall provide an annual report, after consultation with the self-
95 determination advisory board, to the joint committee on children, families and persons with
96 disabilities documenting progress in terms of numbers served through self-direction, ongoing
97 improvements to the department's self-direction program and challenges related to the
98 department's self-direction programs. The annual report shall include an analysis of the annual
99 survey of individuals participating in self-direction mandated in subsection (l) and strategies to
100 address the issues identified in these surveys.

101 (n) The department shall utilize the Home and Community Based Waivers to maximize
102 federal reimbursement for services rendered through self-direction and related models. As
103 necessary, the department and executive office of health and human services shall amend the
104 waiver and take any other steps to ensure that activities or services can be implemented to
105 achieve goals under person-centered plans for individuals.

106 Section 20. The department shall establish a contingency fund to assist: (1) individuals in
107 need of services; (2) individuals who participate or wish to participate in self-direction or self-
108 determination; (3) individuals with unanticipated, emergency or changing needs; (4) in the case
109 of an individual who chooses to leave a group living arrangement, in order to mitigate impact to
110 providers. The fund shall be comprised of 40% of the savings from the closure of Templeton and
111 other funds as they may be available within the department's budget and at its discretion. The
112 department shall make every effort to ensure that the fund retains sufficient funds for individuals
113 utilizing self-determination and provider mitigation throughout the fiscal year. The department
114 shall develop a policy related to the fund for individuals utilizing self-direction with the
115 assistance of the self-determination advisory board.

116 Section 21. (a) Individuals and their guardians shall have choice of department services
117 or qualified providers and shall be free to change the individual's services or service provider.
118 When an individual or their guardian requests a change, the department shall initiate the process
119 for requested changes as soon as possible.

120 (b) Upon receiving a request from an individual or their guardian for a change of service
121 or service provider, the individual or their guardian and the provider shall take steps to see if a
122 resolution to the situation can be reached. If, at any time, the individual feels that a resolution to
123 the situation cannot be reached, the individual or their guardian can request that the following
124 process be initiated within 7 days of the individual or their guardian notifying the department: (1)
125 the department shall assist the individual in developing an alternative living situation, and both
126 the department and the individual will make a good faith effort to determine a suitable
127 alternative; (2) the department shall work in conjunction with the individual to transfer to an

128 available alternative as expeditiously as possible and taking no longer than 90 days; (3) as
129 necessary, the department will work with the provider of the residence or group living situation
130 to ensure stability, including the use of the contingency fund for mitigation established in section
131 20 of this chapter.