



COMMONWEALTH OF VIRGINIA
DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

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DATE

TO: Virginia Centers for Independent Living Directors

FROM: Marcia DuBois, Deputy Commissioner, Department for Aging and Rehabilitative Services

SUBJECT: Electronic Signatures

BACKGROUND:

Virginia Independent Living Services regulations require independent living plans (IL plans), reviews, and waivers to be signed by consumers or, if consistent with state law and the individual chooses, the individual's guardian, parent, or other legally authorized advocate or representative. Regulations covering protection, use, and release of personal information also require, with limited exceptions, Centers for Independent Living (CILs) to receive informed written consent of an individual or, if appropriate, the individual's legally authorized representative in order to release personal information to another agency or organization.

Specifically, [22VAC30-30-70 A and B](#) states:

A. A DSU may carry out the functions and responsibilities described in this section, except as otherwise provided, or may delegate them to the appropriate service provider with which the DSU subgrants or contracts to provide IL services. Unless the individual who is to be provided IL services under this part knowingly and voluntarily signs a waiver stating that an IL plan is unnecessary, an IL plan shall be developed and periodically reviewed. The service provider shall provide each IL service in accordance with the IL plan.

1. Development of an individual's IL plan must be initiated after documentation of eligibility. The IL plan must indicate the goals or objectives established, the services to be provided, and the anticipated duration of the service program and each component service.
2. The IL plan must be developed jointly and signed by an appropriate staff member of the service provider and the individual with a significant disability or, if consistent with state law and the individual chooses, the individual's guardian, parent, or other legally authorized advocate or representative.

3. A copy of the IL plan and any amendments must be provided in an accessible format to the individual with a significant disability or, if consistent with state law and the individual chooses, the individual's guardian, parent, or other legally authorized advocate or representative.

B. The IL plan must be reviewed as often as necessary, but at least on an annual basis, to determine whether services should be continued, modified, or discontinued, or whether the individual should be referred to a program of vocational rehabilitation services under 34 CFR Part 361 or to any other program of assistance. Each individual with a significant disability or, if consistent with state law and the individual chooses, the individual's guardian, parent, or other legally authorized advocate or representative, must be given an opportunity to review the IL plan and, if necessary, jointly redevelop and agree by signature to its terms.

Additionally, [22VAC30-30-120 E.](#) states:

E. Upon receiving the informed written consent of the individual or, if appropriate, the individual's legally authorized representative, the service provider may release personal information to another agency or organization for the latter's program purposes only to the extent that the information may be released to the involved individual and only to the extent that the other agency or organization demonstrates that the information requested is necessary for the proper administration of its program.

GUIDANCE:

To comply with the regulations cited above, CILs routinely obtain signatures from individuals (also referred to as consumers) or, if the individual chooses, their guardian, parent, or other legally authorized advocate or representative to demonstrate that an IL plan has been “jointly developed”, “redeveloped” or waived. Signatures are also obtained from individuals or their legally authorized representatives to convey informed written consent for a CIL to release personal information.

CILs may permit individuals, guardians, parents, or other legally authorized advocates or representatives to use electronic signatures on IL plans IL plan amendments, and IL plan waivers, or to obtain informed written consent in accordance with independent living services regulations. An "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record ([§ 59.1-480 of the Code of Virginia](#)).

Electronic signatures have the same effect as written signatures provided the CIL has developed and maintains policies and procedures that reasonably ensure the following:

1. The electronic signature is clearly discernable,
2. The electronic signature identifies the individual signing the document and the date of the signature,
3. The electronic signature cannot be altered once it is attached to a document,

4. Documents cannot be signed electronically by anyone other than the individual required to sign the document, and
5. Documents containing electronic signatures can be printed out upon request.

Documents containing electronic signatures must be maintained in accordance with DARS regulations, contractual obligations, and policies, as well as any internal CIL policies and procedures, and must be retained for at least five (5) years following closure or inactivity.

This guidance shall only apply to the delivery of IL services by CILs. This guidance does not cover the delivery of other services by CILs, including but not limited to Vocational Rehabilitation services, Pre-Employment Transition services, Medicaid services, or fulfilling of duties of state-designated voter registration agencies under the Voter Registration Act (e.g. completion of the Voter Registration Agency Certification).