


DEPARTMENT OF HUMAN RESOURCES  
SOCIAL SERVICES ADMINISTRATION  
311 WEST SARATOGA STREET  
BALTIMORE MARYLAND 21201

DATE: September 30, 2009 (UPDATED 6/22/10)

POLICY #: SSA # 10-12

TO: Directors, Local Departments of Social Services; Assistant  
Directors, Local Departments of Social Services; Child  
Welfare Supervisors; Family Investment Supervisors; Child  
Support Supervisors

FROM: Carnitra White, Executive Director  
Social Services Administration 

RE: Children with Disabilities – Voluntary Placement Agreement

PROGRAMS AFFECTED: In-Home Services, Out-of-Home Placement Services, Family  
Investment Administration (Medical Assistance) and Child  
Support Enforcement Administration

ORIGINATING OFFICE: Child Welfare Practice and Policy

BACKGROUND: SUPERCEDES CIRCULAR LETTER #05-03  
Children with Disabilities – Voluntary Placement Agreement

ACTION REQUIRED OF: All Child Welfare Services, Family Investment, and Child  
Support Staff

REQUIRED ACTION: The Local Department of Social Services shall implement  
certain procedures when responding to requests for voluntary  
placements

EFFECTIVE DATE: October 1, 2009

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## **Purpose**

This Policy Directive is to provide clarity about entry of children with developmental disabilities and mental illness into Out-of-Home Placement for purposes of treatment through the voluntary placement process. This permits parents/legal guardians to request a voluntary placement without relinquishing legal custody of the child and enables the child to remain in an out-of-home placement beyond 180 days. In these cases, the local departments of social services shall file a petition for a voluntary placement hearing prior to the 180<sup>th</sup> day after the agreement is signed.

On October 1, 2007 the Children with Disabilities – Voluntary Placement Agreements Act of 2007 (SB579, HB1226) went into effect. The law requires local departments of social services to present all Voluntary Placement requests at the Local Coordinating Councils and requires the court to determine whether the local department made reasonable efforts to prevent placement or could have placed the child under a Voluntary Placement Agreement prior to adjudicating a child with a mental illness or developmental disability a Child in Need of Assistance(CINA).

## **Background:**

On January 17, 2003, Governor Robert Ehrlich signed Executive Order 01.01.2003.02 “Custody Relinquishment and Access to Services for Children”. This order identified the urgent need to identify alternatives to the practice of requiring parents to relinquish custody of their children who have significant and complex mental health needs and/or developmental disabilities, in order to access services.

Subsequent to the Executive Order, Children with Disabilities – Voluntary Placements Act of 2003 was enacted to provide voluntary placement for a child with a developmental disability or mental illness where the purpose of an out-of-home placement is to provide treatment or care related to the child’s disability that the parent is unable to provide. The Act requires that parents or legal guardians of a child that meets eligibility requirements and has a developmental disability or mental illness necessitating an out-of-home placement for treatment, be given the opportunity to enter into a voluntary placement agreement with the local department of social services. The law also requires that a voluntary placement court hearing be held prior to the 180<sup>th</sup> day of a placement and at regular intervals thereafter. The purpose of a judicial finding is to determine if continuation of an out-of-home placement is in the child’s best interest and to qualify the child for Title IV-E reimbursement. The law prohibits the local department from seeking custody of a child via a Child in Need of Assistance petition based solely on the child’s developmental disability or mental illness. Although the local department does not have legal custody of the child, the law requires that local departments be given responsibility to make decisions that affect the care and placement of the child. If a parent or legal guardian is unwilling to agree to the terms of the voluntary placement agreement, the local department cannot offer this type of voluntary placement for the child. The law

requires that the voluntary placement be a binding written agreement “voluntarily entered into” between local departments of social services and parents or guardians of the child and approved by DHR/Social Services Administration.

Family law – Central Registry – Exception Act of 2003 prohibits parent(s)/legal guardians from being placed on the Child Abuse Central Registry when they refuse to take a child home from a psychiatric hospital or other facility because of a reasonable fear for the safety of the child or other family members. However, the local department will continue to investigate and act upon allegations of child maltreatment as prescribed by statute.

The Children with Disabilities Voluntary Placement Agreements Act of 2007 requires local departments of social services to present all Voluntary Placement requests at the Local Coordinating Councils and requires the court to determine whether the local department made reasonable efforts to prevent placement via a voluntary placement agreement prior to CINA adjudication.

#### I. Voluntary Placement Agreement Request Process

##### A. Who may request a Voluntary Placement Agreement:

1. A parent
2. Legal guardian
3. The court
  - a. In a hearing conducted in accordance with Courts & Judicial Proceedings 3-815, 3-817, or 3-819, before determining whether a child with a developmental disability or mental illness is a child in need of assistance, the court shall make a finding whether the local department made reasonable efforts to prevent placement of the child into the local department’s custody by determining whether the local department could have placed the child in accordance with a voluntary placement agreement under Family Law 5-525(a)(1)(i) or (iii).
  - b. If the Court finds that the LDSS did not make reasonable efforts, the Court will:
    - i. Hold in abeyance a finding on whether a child with a developmental disability or mental illness is a CINA;
    - ii. Order the local department to assess or reassess the family and child’s eligibility for placement using a Voluntary Placement Agreement; and
    - iii. Order the local department to report back to the court in writing within 30 days unless the court extends the time period for good cause shown.
  - c. If the local department does not find the child eligible for a voluntary placement agreement, the Court shall hold a hearing to determine whether the family and child are eligible for placement of the child in accordance with a voluntary placement agreement; and
    - i. After the hearing, find that the child is not in need of assistance and order the local department to place the child in accordance with a voluntary placement agreement;
    - ii. Find that the child is in need of assistance; OR
    - iii. Dismiss the case.

- B. How to make a request:
  - 1. The parent or legal guardian contacts their local department of social services via telephone or in writing to make a request for a Child with Disabilities Voluntary Placement Agreement. The parent or legal guardian shall apply in the county in which the person with legal custody resides, even if the child currently resides in a different county or state.
  - 2. A request may not be initiated by a third party, such as hospital or treatment personnel.

## II. Conditions for Children with Disabilities – Voluntary Placement

- A. The local department shall accept a request for a voluntary placement for children with disabilities under the following conditions:
  - 1. The child has a documented developmental disability or a mental illness;
  - 2. The child requires an out-of-home placement in order to obtain treatment directly related to the documented disability;
  - 3. The parent is unable to provide needed treatment; AND
  - 4. Goal is reunification with family at conclusion of treatment.
  - 5. A request can be initiated PRIOR to receipt of a written recommendation for out-of-home placement. If the parent(s) does not have the written treatment recommendation for Out-of-Home Placement, the LDSS shall assist the family to obtain the required documentation.
- B. The department shall make reasonable efforts with the parent(s)/legal guardian to prevent an out-of-home placement prior to entering into a VPA. Both parents shall be engaged in the decision to enter into a Voluntary Placement Agreement. If the child is in the physical custody of one parent, the whereabouts and status of the non-custodial parent shall be ascertained. The ability of the non-custodial parent to meet the child's needs without a VPA shall be assessed. Both parents shall be included in all planning meetings, unless there is a court order to the contrary. If the identity or current whereabouts of the non-custodial parent is unknown, the department may proceed with planning with the custodial parent. This does not remove the requirement that the Department continue to make reasonable efforts to locate the absent parent and other family members as long as the VPA is active.
- C. Fear of Safety: If the parent/guardian refuses to take the child home from a psychiatric hospital or other facility that indicates that the child can be treated at home in their community and the parent(s)/legal guardian report they are unable or unwilling because of a reasonable fear for the safety of the child or other family members, the local department shall assess the situation to determine whether the alleged fear is reasonable under the circumstances. If it is determined to be reasonable, the local department may not use the circumstances as the basis for an indicated finding of neglect. If the local department determines that the basis for the parent(s)' objection cannot be substantiated, the local department may use the circumstances as a basis for a Child in Need of Assistance (CINA) petition.
- D. Responsibilities of Other Agencies for Placement
  - 1. Residential Treatment Recommendations
    - a. The local Core Service Agency is charged with being the lead agency for children who are on Medical Assistance entering an RTC who are not in

the custody of a state agency. LDSS shall not initiate the VPA process for a child in need of residential treatment (RTC) if the child currently receives Medical Assistance (MA) and the local school system has approved funding for such a placement. LDSS involvement is also not needed if the RTC will send the child to the public school system for the child's education. The LDSS shall assist the parent in contacting the Core Service Agency, who is responsible for sending out packets, securing the placement, and providing case management services during the placement duration.

- b. VPA applies in cases where a child is in need of a RTC placement but the local school system Individualized Education Program (IEP) team has not agreed to the need for a non-public school placement. The LDSS shall assist the family to appeal the denial of a non-public school placement through the school system. The VPA shall be terminated if the IEP team subsequently approves funding and the case transferred to Core Service Agency for ongoing case management and discharge planning.
  - c. If a child needs placement in a RTC and has or will be approved by the local school system IEP team for a non-public school, but is not currently eligible for Medical Assistance, VPA does apply. In virtually all cases, children placed in RTCs will qualify for Medical Assistance 30 days after admission. MA eligibility continues while they remain in the RTC and for 90 days after they are discharged. Once MA is activated and education costs are covered by LSS/MSDE, VPA is no longer needed to fund the placement. The VPA shall be terminated and case management responsibility transferred to the Core Service Agency. An LCC meeting will be held to effectuate transfer of case management responsibility prior to ending the VPA.
2. Developmentally Disabled Children
    - a. For any request for a VPA for a child with developmental disabilities, an inquiry shall be made to the local DDA office to determine if the child is known to DDA.
    - b. If the child has or seems to have a developmental disability, but is not known to DDA, the parent or legal guardian shall immediately file an application with DDA.
    - c. If the child is known to DDA, the local department shall inquire as to services being provided on behalf of the child or any services provided in the past.
  3. Child is Enrolled in a Medicaid Waiver
    - a. For children with autism, developmental disabilities (such as intellectual disability, cerebral palsy, or brain injuries), or medically fragile conditions (e.g., need in-home nursing), the local department shall determine if the child is **currently enrolled** in a Medicaid Waiver Program including the Autism Waiver, the Developmental Disabilities (DD) Waiver (Community Pathways or New Directions) or the Model Waiver.
    - b. If a child is enrolled in the Autism Waiver or a DD Waiver Program, the local department shall contact the Autism Waiver case manager or the DD service coordinator for the child. Community-based residential care is a

- covered service under those waiver programs if determined necessary by the Autism Waiver Multi-Disciplinary Team and a VPA is not necessary.
- c. Residential services are not covered by the Model Waiver and therefore a VPA may still be needed. The local department shall contact the Model Waiver case manager and inform the parents whether the child will be terminated from the Model Waiver if the child is placed under a VPA.
  4. Child in custody of child serving agency: If the child is in the custody of a child placement agency (such as DJS), VPA does not apply. The child must be in the care and custody of a parent or legal guardian at the time of application.

### III. Assessment for Voluntary Placement Agreement

- A. The local department will schedule an assessment meeting to be held within 5 working days of the request and will provide the parent(s)/legal guardian with an introduction letter that includes the appointment date, time and location for the assessment meeting and a checklist of necessary materials to be submitted for a Child with Disabilities Voluntary Placement Agreement
- B. It is optional for local departments to convene a Family Involvement Meeting (FIM) prior to signing a Voluntary Placement Agreement as long as an assessment meeting and Local Coordinating Council (LCC) review have occurred. However, a FIM shall be scheduled with a family when the terms of the agreement are modified, placements are changed or prior to a voluntary court review hearing. The local department is required to schedule a FIM if the court orders a voluntary placement assessment.
- C. During the assessment meeting or FIM, the local department representative shall obtain the following information from the parent(s)/legal guardian:
  1. Signed release of information;
  2. Verbal disclosure of reason for the voluntary placement request;
  3. Written recommendation from treatment provider (medical doctor, psychiatrist or psychologist) detailing need for out of home placement. The treatment provider can be community based even if the child is currently in a facility;
  4. Verbal disclosure of Placement history;
  5. Verbal disclosure of family strengths and limitations;
  6. Verbal disclosure of services the child received previously to prevent placement;
  7. Verbal disclosure of Child Protective Service history and signed consents from parent/legal guardian to complete Child Protective Services clearances;
  8. Copies of Legal documents (divorce decrees, custody agreements, child support orders, etc.);
  9. Copy of child's birth certificate;
  10. Copy of child's social security card;
  11. Verbal disclosure of relevant medical information such as:
    - a. Hospitalizations;
    - b. Child's medical history;
    - c. Child's mental health history;
    - d. Family medical history; and
    - e. Family mental health history.

12. Verbal disclosure of education history and status;
  - a. Copy of current Individual Education Program (IEP); and
  - b. Identification of current school placement.
- D. The local department representative shall provide the following information and guidance to parents/legal guardians during the assessment, which includes:
  1. An explanation of the role of the agency, the requirements of Child with Disabilities Voluntary Placement Agreement and Out-of-Home Placement Services, including a clear disclosure that entering into a VPA does not transfer custody to the local department;
  2. A description of the placement process and decisions that are made by the child placement agency regarding the acceptance or denial of the child. (818 process, in-state and out-of-state referrals);
  3. An explanation of the purpose of the Local Coordinating Council (LCC). Upon receipt of a request for a voluntary placement agreement for a child with a developmental disability or mental illness, the local department shall discuss the child's case at the next meeting of the LCC to determine whether any alternative or interim services for the child and family may be provided by any agency. Parent(s)/legal guardian shall sign waiver for 10 day notice, to allow for immediate scheduling of the LCC;
  4. A discussion of the placement decision, which will ultimately be made by the local department with input from the parent(s)/legal guardian, including the fact that RTC placement recommendations shall be dated within 30 days of admission date;
  5. Informing the parent(s) of their responsibility to maintain financial responsibility for the child, including the obligation to pay child support. This does not apply to legal guardians who do not have an obligation to financially support the child;
  6. Informing the parent that financial responsibility for placement and monthly maintenance costs will be theirs until the voluntary placement agreement is signed and the child is placed;
  7. Informing the parent that child support and/or entitlement benefits will be assigned to the State;
  8. Providing the parent(s) with the forms necessary to apply for child support services and share child support brochure along with Internet address for the Maryland Child Support Enforcement Program ([www.dhr.state.md.us/csea](http://www.dhr.state.md.us/csea)) with the parent(s) to further assist them with the decision to request a voluntary placement. The local department shall give the parent(s) a child support informational sheet (Chart of Estimated Child Support Obligations) that contains an income range to tell them if their income falls within range requiring them to pay support, (your child support payments may fall between X and Y);
  9. Informing the parent/legal guardian that a voluntary placement agreement does not circumvent the obligation of the local department to investigate allegations of child maltreatment and to act upon the results of the investigation, as prescribed by statute;
  10. Informing the parent that the local department assumes financial responsibility for the placement after the voluntary placement agreement is signed and the child is placed; and

11. A discussion explaining the appeal process (See section IV, VPA Decision for more information).

E. Parent Responsibilities

1. The parent(s) shall agree to maintain any existing health care coverage on behalf of the child. This is used as the primary coverage to pay for the child's health care needs while in an out-of-home placement;
2. If there is no existing health care coverage and the parent(s) have employment that offers health care, they shall enroll the child for health care coverage at the first opportunity;
3. The parent(s) shall agree to pay child support. If child support payments are being made by a non-custodial parent, the custodial parent shall assign to the State all rights to receive said payments while the child is under a VPA. The parent(s) shall file an application with the Child Support Enforcement Administration (CSEA). If the parent(s) refuses to cooperate with CSEA regarding child support, the local department may not enter into a voluntary placement agreement.

F. Child Support

1. Each LDSS shall establish procedures to ensure prompt handling of VPA referrals by the local child support office.
2. The parent(s) shall be informed that the amount of any child support order will be determined based on the Maryland Child Support Guidelines pursuant to Annotated Code of Maryland Family Law §12-201 through §12-204, and that the order will be enforced under applicable Federal and State laws.
3. The parent(s) shall complete the forms necessary to apply for child support services and provide the Child Support Enforcement Agency with financial and other information necessary to establish a support order. The local Child Support Enforcement Agency will process the following forms DHR/CSEA 980- A Application for Support Enforcement Services, DHR/CSEA 980 Information for Support Enforcement Services and DHR/CSEA 128 – Application for Child Support Services Cover Letter.
4. The LDSS shall write at the top of the Child Support Application “VOLUNTARY PLACEMENT.” This will notify the local CSEA that the \$25.00 application fee is waived.
5. The parent(s) shall meet with CSEA to establish the monthly child support payment and sign an Affidavit of Support detailing the amount and manner of payment.
6. The VPA may not be signed until an Affidavit of Support has been finalized between the parent(s) and CSEA.
7. Failure to pay child support as agreed shall be grounds for rescinding the voluntary placement agreement.
8. Legal guardians are not required to contribute to the support of children. If the guardian is receiving child support, those payments shall be assigned to the State as long as the child is placed in an out-of-home placement. The local department shall pursue child support from the child's parents via normal foster care process once the VPA is signed.

G. The local department shall complete a SAFE-C and Maryland Family Risk Assessment of the child's home as part of the determination of the appropriateness of a voluntary placement. The local department shall also seek



the family's participation in the assessment of both strengths and needs, and complete the initial service agreement.

- H. The local department representative shall complete and submit the referral packet to the Local Coordinating Council (LCC) and ensure that the case is placed on the schedule for the next LCC meeting. If the next scheduled meeting is more than 7 days after the request, an emergency LCC meeting shall be convened. The purpose of the meeting is to determine whether any alternative or interim services for the child and family may be provided by any agency to prevent out-of-home placement. LCC approval is not needed to enter into a VPA.

#### IV. VPA Decision

- A. The local department shall render a written decision regarding eligibility within 5 working days of the LCC meeting and send this decision to the parent(s)/guardian.
1. If the child is appropriate for a Children with Disabilities Voluntary Placement Agreement, the local department shall:
    - a. Locate a placement that will meet the child's needs in the least restrictive setting;
      - i. The voluntary placement agreement cannot be signed until the child has been accepted and is ready to be placed in an appropriate placement. An appropriate placement can be an interim respite or diagnostic placement if that type of placement is in line with treatment recommendations and the child meets the criteria for placement in respite or diagnostic placement. A psychiatric hospital is not considered a placement and the VPA may not be signed until a placement outside of the hospital setting is available.
      - ii. Resource referrals will be submitted in accordance with existing policies and procedures. While the child is awaiting placement, In-Home Family Services may be provided to support the family.
      - iii. While the parent(s)/legal guardian may have input regarding the placement resource for the child, the local department makes the final placement decision.
    - b. The local department shall submit Children with Disabilities Voluntary Placement Checklist DHR/SSA 296 via fax to the Social Services Administration (SSA) Voluntary Placement Coordinator. The checklist can be submitted prior to identifying the prospective placement. The checklist must be reviewed for completion by SSA prior to signing the VPA. SSA shall fax the signed checklist back to the local department within 2 business days.
    - c. When a student entering into a voluntary placement agreement is attending a special education nonpublic school program, the LDSS shall notify the local school system Nonpublic Office that the transition does not result in an interruption of services.
    - d. Sign the Children With Disabilities – Voluntary Placement Agreement. This agreement grants care and placement responsibility to the local department, states that the parent/legal guardian shall retain legal custody of the child, and lists the rights and obligations of the parent(s)/legal guardian, child and the local department. **The parent(s)/legal guardian**

**and agency representative sign the voluntary placement agreement on the date the child is admitted to the appropriate placement.**

- e. The agreement may not be signed unless the parent(s) have signed an Affidavit of Support with CSEA detailing the amount and manner for child support payments.
  - f. The parent(s) is responsible for all costs (including current placement) for the child prior to the signing of the voluntary placement agreement.
  - g. The local department shall notify the Child Support Enforcement Office of the placement date by using Change Notice - Child Support Enforcement Notice DHR/SSA 957 FC. This will initiate the obligation to pay child support per the Affidavit of Support.
  - h. The local department shall send the Family Services Intended Action Letter DHR/SSA 1068 to the parent(s)/legal guardian notifying them of the decision. The Intended Action Letter shall include instructions for appealing the local department decision.
2. Denial of Request: If the child is not appropriate for a Child with Disabilities – Voluntary Placement
- a. Within 5 calendar days of the denial, the local department shall send the Family Services Intended Action Letter DHR/SSA 1068 to the parent(s)/legal guardian which includes the reason why the request was denied and what services can be offered. The local department shall include instructions for appealing the local department decision.
  - b. The local department may offer In-Home Family Services or refer the parent/guardian to community services to support the family in caring for the child's needs.
  - c. Refusal by the parent(s) to pay child support shall be grounds for the denial of the voluntary placement.

**B. Appeal Process**

1. Parent/Guardian requests supervisor conference in writing.
  - a. The conference shall be held within 10 days of request.
  - b. The purpose of conference is to fully disclose reason for decision and provide parent/guardian with opportunity to ask questions relating to the decision rendered.
2. If the parent/guardian disagrees with conference outcome, the LDSS shall provide necessary forms and assist the parent with formally appealing the decision with the Office of Administrative Hearings (OAH).
3. The parent/guardian has 90 days from the decision notification date to file DHR/SSA 315 – A Request for Administrative Hearing with the Office of Administrative Hearings.

**V. Out-of Home Placement Services**

**A. Voluntary Placement Agreement: The Children with Disabilities – Voluntary Placement form DHR/SSA 582 is the voluntary placement agreement.**

1. Both parents, the parent with sole legal custody, or the legal guardian, and the local department representative shall sign the form. If one of the parents is not available and legal custody has not been established by court order, the parent with physical custody may sign the form.

2. The local department shall include the child in the discussion on drafting the agreement, as developmentally appropriate.
  3. The agreement specifies the legal status of the child, along with the rights and obligations of the parent(s)/legal guardian, the child and the local department.
  4. The agreement does not negate the local department's responsibility to investigate and act upon allegations of the child maltreatment as prescribed by statute.
  5. The date that the agreement is signed by all parties is the entry date into Out of Home Placement (OHP) and is the date technical and case plan requirements for OHP services begin.
- B. LDSS Responsibilities:
1. Once the VPA agreement has been signed, the Department is obligated to provide funding to pay the contracted board rate for the placement. The Department shall also provide funding for education, if applicable.
  2. The child placed under this agreement is entitled to receive case management services necessary to achieve reunification or another permanency plan that is appropriate for the child.
  3. Every child in a placement resource under a voluntary placement agreement shall have a written case plan and service agreement as part of the case record. The service agreement shall be developed with parent(s)/legal guardian of the child. The case plan will document the child's progress, services, safety, medical and educational needs, as well as the parent's support and involvement.
  4. The utilization of flex funds to pay for services not covered by the monthly board rate shall be at the sole discretion of the LDSS.
- C. Parent/Legal Guardian Rights and Responsibilities
1. Children under a VPA are not in the legal custody of the local department of social services, even after the Court hearing. The parent(s)/legal guardian(s) retain all decision making authority as to health, education and all other issues, except the physical placement of their child.
  2. The parent(s) are legally and financially responsible for their child under a VPA, except for placement costs paid by the LDSS. Any costs not included in the contracted placement rate are the responsibility of the parent. This includes clothing expenses for children placed in RTC and responsibility for transportation costs for the child not covered by the placement and transportation for visitation, court hearings and other necessary appointments. The parent(s) shall work closely with the placement provider to schedule necessary appointments. This includes the parent signing necessary releases and consents.
  3. The parent(s)/legal guardian shall participate fully in the treatment plan for their child, including attending therapy sessions, treatment plan meetings, and any other actions deemed necessary for the child's treatment and reunification. Failure to participate in treatment may be used as grounds for rescinding the VPA.
  4. Child Support shall be paid according to the child support consent order voluntarily entered into prior to the execution of the VPA. Failure to pay support in accordance with the order shall be grounds for rescission of the VPA by the Department.

5. The parent(s)/legal guardian will review the child's health care needs with the caseworker and complete the child's Medical Passport with the help of the local department.
- D. Educational Services:
1. All school aged Children placed under the provision of "Voluntary Placement" are required to have their Individual Education Program (IEP) implemented. If a change in school placement is required as a result of the voluntary placement, the appropriate IEP team procedures shall be followed to assure no interruption in IEP special education and related services.
  2. The parent/legal guardian is responsible for keeping the local school system informed of their status, including updating their home address in the event of a move.
- E. Authorization of Medical Assistance
1. The parent(s) shall maintain any existing health care coverage on behalf of the child and it is to be used as the primary coverage to pay for the child's health care needs while in an out-of-home placement. The secondary health coverage shall be Medical Assistance.
  2. Medical Assistance Application Process
    - a. The service caseworker shall provide the application to the parent(s)/legal guardian.
    - b. The parent(s)/legal guardian shall complete the Medical Assistance application with the help of the local department. The parent(s)/legal guardian shall sign the application, which is a federal requirement, and provide the required documents to process the application.
    - c. The service caseworker provides the completed application for medical assistance along with required documents to the FIA caseworker for certification and eligibility determination.

#### VI. Court Requirements Under a Voluntary Placement Agreement

- A. The local department may not seek custody via the CINA statute as long as the child has a developmental disability or a mental illness and the placement is needed to obtain treatment or care related to the child's disability. This presumes there is no documented finding of child abuse or neglect which raises concerns for the child's safety.
- B. In those instances when there are documented findings of child abuse or neglect and the parent is unable or unwilling to provide proper care and attention, the local department may file a petition for CINA.
- C. Continuation of VPA
  1. A VPA is in effect for 180 days or until the child's 18<sup>th</sup> birthday, whichever occurs first. In order to continue the VPA, the local department shall file a petition to request a Voluntary Placement Hearing in order to obtain a judicial determination that the child's disability continues to necessitate care or treatment in an out-of-home placement and continuation of a voluntary placement is in the best interest of the child. The petition shall be filed timely to ensure that the court hearing occurs prior to the 180<sup>th</sup> day or 18<sup>th</sup> birthday, whichever occurs first.

- a. There shall be written documentation from a health care professional that treatment and care continues to be needed due to the child's developmental disability or mental illness.
  - b. The petition shall be filed in the county where the parent(s)/legal guardian resides.
  - c. If the child will turn 18 prior to the 180<sup>th</sup> day and the youth's best interest is served by continuation of VPA following the 18<sup>th</sup> birthday, the local department shall file a petition in a timely manner to ensure that the court hearing occurs prior to the 18<sup>th</sup> birthday.
  - d. The LDSS may not seek custody as long as the child has a developmental disability or a mental illness and the placement is needed to obtain treatment or care related to the child's disability. This presumes there is no documented finding of child abuse or neglect.
2. The packet for submission to the court shall include:
    - a. Voluntary Placement Petition;
    - b. Voluntary Placement Agreement (copy);
    - c. Case Plan;
    - d. Court Summary;
    - e. Progress report regarding treatment and placement needs from the treatment provider;
    - f. Request to assign counsel for the child; and
    - g. Proposed Order.
  3. The court shall make the one of the following findings:
    - a. The voluntary placement is in the best interest of the child and the voluntary placement continues according to the agreement;
    - b. The voluntary placement is in the best interest of the child and the voluntary placement is continued with the agreement amended;
    - c. If necessary to ensure the care, protection, safety, and mental and physical development of the child, the local department may be ordered to file a CINA petition; or
    - d. The voluntary placement is terminated and the child returned home with or without supportive services.
  4. The court shall hold hearings for Children with Disabilities –Voluntary Placement every six months until the child is no longer under a voluntary placement agreement.
  5. The VPA may be extended up to the 21<sup>st</sup> birthday, but the VPA shall end on the day of the youth's 21<sup>st</sup> birthday.

## VII. Terminating a Voluntary Placement

### A. During Assessment Phase

1. At any point, services may be terminated while active with In-Home Services when:
  - a. The risk of maltreatment has been reduced and safety has been assured;
  - b. The family is functioning marginally, but the risks to the child are insufficient to justify out of home placement and the family refuses to utilize services; or
  - c. There is sufficient reason to remove the child from the home and place the child in an environment that can assure safety.

2. If, during the course of the assessment, the family relocates to another jurisdiction within the State, and it is determined that continued intervention is necessary, that local department where the family has relocated shall be notified immediately by telephone and the family's request forwarded to the new jurisdiction.
  3. If, during the course of the assessment, the parent moves out of Maryland, the request for VPA shall be denied. The LDSS shall provide the parents with contact information for child welfare services in the new state.
  4. If, during the course of the assessment, custody transfers from the parent or legal guardian to another individual or child placement agency (such as Department of Juvenile Services), the VPA request shall be denied.
  5. When the plan is to close the case, prior to the voluntary placement agreement being signed, the caseworker shall meet with the family to discuss the following:
    - a. The reason for closing;
    - b. The safety plan or service plan that has been established for the child;
    - c. The family's progress and any other concerns; and
    - d. The resources and options available to the family within their community.
  6. The worker shall send a closing letter to the family within 5 calendar days of case closing decision detailing the reasons for case closure and appeal rights.
- B. After VPA agreement has been signed
1. Written revocation by parent: A child shall be returned to the parent(s)/legal guardian within 15 calendar days notice provided that:
    - a. The local department receives a written revocation from the parent(s)/legal guardian;
    - b. The voluntary placement hearing has not been held; AND
    - c. The local department is in agreement with the request to revoke the agreement.
  2. The child has completed needed treatment and is ready for discharge from an out-of-home placement with a recommendation to return home;
  3. The parent(s)/legal guardian fail to fulfill the terms of the agreement or move out of state. The LDSS shall provide 15 calendar days written notice including details of the reason for rescission and an explanation of appeal rights;
  4. Medical Assistance has been activated for a child placed under a VPA in an RTC and education funding is approved by the local school system. The VPA shall be terminated and case management responsibility transferred to the Core Service Agency. An LCC meeting will be held to effectuate transfer of case management responsibility prior to ending the VPA; or
  5. Custody is transferred from the parent(s) or legal guardian to another individual or child placement agency (such as Department of Juvenile Services).
  6. If the local department does not agree that return home is in the child's best interest or that the child's safety would be compromised, a CINA petition may be filed.
  7. If the family relocates to another jurisdiction after the VPA has been signed, the LDSS shall determine, in consultation with the family and the residence jurisdiction, whether the child's interests are best met by the continuation of

the VPA with the initial jurisdiction or if the VPA should be transferred to the jurisdiction where the family resides.

- C. After VPA hearing has been held
1. Once the VPA hearing has been held, the agreement may not be rescinded without approval of the Court. The request to close the VPA will be provided to the parent(s) and all counsel simultaneously with notice to the Court.
  2. The local department shall request the Court terminate jurisdiction and close the VPA if:
    - a. The child has completed treatment and is ready for discharge from out of home placement;
    - b. The parent(s)/legal guardian fail to fulfill the terms of the agreement or move out of state;
    - c. Custody is transferred from the parent(s) or legal guardian to another individual or child placement agency (such as Department of Juvenile Services); or
    - d. The parent(s)/legal guardian request revocation of the VPA in writing. The local department shall discuss with the parent/legal guardian their after placement plans and available service options for the child upon discharge from out of home placement.
  3. If the local department does not agree that revocation of the VPA is in the child's best interest, the local department shall request an emergency voluntary placement review hearing.
- D. Closing Procedures
1. Discharge Planning: Prior to terminating a VPA, the local department shall complete an assessment for need for ongoing services and make appropriate referrals to support the child and family in the community.
  2. The case will be closed in out-of-home placement on the date the child leaves the out of home placement.
  3. The local department shall submit DHR/SSA 957 FC – Status Change Notice – Child Support Enforcement to request closure of the child support case.
  4. The local department shall initiate a redetermination of the child's eligibility for medical assistance to determine the child's eligibility for continued health care service. If it is determined that the child is not eligible, the Medical Assistance case will be closed.

## VIII. Administrative Issues

### A. Designation of VPA staff persons

1. Each local department shall designate (from existing staff) a staff person to administer/track requests for voluntary placement agreements for children with developmental disabilities or mental illness.
2. The local department shall forward the name of the assigned staff person to the Social Services Administration for placement on the VPA Coordinator List. The local department shall update this list via communication with SSA in the case of staff changes.

### B. Reporting Requirements

1. The local department shall submit monthly reports- Monthly Report – Voluntary Placements - DHR SSA 154 to the Social Services Administration on **all requests** for a voluntary placement even if the requests do not turn into actual voluntary placements. The outcome of each request, plus reasons for denial or closure shall be documented. This is required by Maryland law.



C. Training Requirements

1. Local department staff who are responsible for completing assessments for VPA shall complete 3 hours of training each year.
2. The training will cover current policies and practices to ensure consistent application across jurisdictions.

D. MD CHESSIE

1. All requests for Voluntary placement shall be entered into CHESSIE as Non-CPS requests for service “Voluntary Placement Request”.
2. A service case shall be opened with a program assignment of “Auxiliary Services – VP (Request) Services” for all clients.
3. When the VPA is signed and placement is made, the worker shall update MD CHESSIE to indicate VPA placement. Removal type is “child with disabilities voluntary placement” and legal custody is “voluntary placement agreement to DSS”. MD CHESSIE will automatically create program assignment “Out-of-Home Placement” for the child. The parents/legal guardians shall be opened in the program assignment “Auxiliary – Parent/guardian of a child in out of home”. If there are any children remaining in the home, they get a program assignment only if the LDSS is providing services to the family on behalf of that child.

E. VPA Forms

1. The policy directive may be accessed through the SSA Intranet site: [www.dhrnet.dhr/SSANet/Policy Directives](http://www.dhrnet.dhr/SSANet/Policy Directives).
2. The required forms are posted on the SSA Intranet site at [www.dhrnet.dhr/SSANet/Children and Family Service Forms](http://www.dhrnet.dhr/SSANet/Children and Family Service Forms)
3. Child Support Enforcement Administration information and forms can found at [www.marylandchildsupport.org](http://www.marylandchildsupport.org).