STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201
Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

EDUCATIONAL ALERT!!!

TO: DDA Licensed Service Providers
All Concerned

FROM: Michael S. Chapman, Executive Director, Developmental Disabilities Administration
Margie Heald, Acting Director, Office of Health Care Quality

DATE: September 8, 2009

RE: **Use of Cameras and Other Monitoring Devices**

In the past few months, the Office of Health Care Quality (OHCQ) and Developmental Disabilities Administration (DDA) have noted that some DDA-licensed provider agencies are utilizing or have installed devices such as video cameras in their DDA-licensed residential sites. Agencies have stated that the purpose of these devices are to improve services for people receiving supports and services through increased staff monitoring. Although most of the cameras are mounted in common areas of the homes, these are areas where services are provided and part of the *home* of the person receiving services. In most cases, the agency had no documentation regarding the rationale for installing these devices, and there was no consent from the person receiving services.

People with developmental disabilities have "the same rights and protections as all other citizens under the laws and Constitution of Maryland and the United States" [COMAR10.22.04.02B(1)]. "Each individual is entitled to the basic rights set forth in Health-General Article, 7-1002-----7-1004, Annotated Code of Maryland, unless the person's team decides it is necessary to restrict a right." [COMAR10.22.04.03A] This means that recording activities of people in the agency's care without consents and following the guidelines below is prohibited, since this is a rights violation.

If the person's interdisciplinary team decides that this restriction is necessary and is in the best interest of the person, the agency must be in compliance with the following, prior to implementation:

1. Explain the rationale and procedures of the restriction to the person and/or legal guardian and obtain the person's and/or legal guardian's informed consent for its implementation;
2. Document in the person's IP the:
   a) Right being restricted,
   b) Reason for the restriction,
   c) Conditions under which the video is used,
   d) Efforts to restore the right to the person, and
   e) Conditions under which the use of video monitoring will no longer be needed
3. The restriction must be reviewed by the person's interdisciplinary team and the agency's standing committee at least annually;

4. If a device such as a video camera or an audio recording equipment is used in the areas where people other than the person/legal guardian may visit, a posting is needed to notify the visitors of the recording and/or taping

This educational alert does not alleviate the licensee of its responsibility of being familiar with and implementing the following regulations. It is hoped that the above parameters (1-4) clarify the requirements for the usage of restrictive devices and techniques. For additional guidance, please refer to:

COMAR 10.22.02.14E(d)(e);
COMAR 10.22.04.02A(3)(6),B(1)(4)(5)(7),D(1)(5)
COMAR 10.22.04.03A,B,C
COMAR 10.22.05
COMAR 10.22.10.06D,E

Thank you for your attention to this very important issue and your commitment to supporting people with developmental disabilities. If you have questions, please contact Amy Daugherty, Statewide Quality Assurance Chief of DDA, at 410-767-5630, or Jennifer Baker, DD Program Manager of OHCQ at 410-402-8100.