

Mental Health Services
Voluntary Out-of-Home Treatment Program
Children with Severe Emotional Disturbances

Service Chapter 850-05

North Dakota Department of Human Services
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**Mental Health Services
Voluntary Out-of-Home Treatment Program
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Mental Health Services

Voluntary Out-of-Home Treatment Program for Children with Severe Emotional Disturbances 850-05

Purpose 850-05-01

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The voluntary treatment program manual identifies protocols and procedures for the application process and use of the program.

The voluntary treatment program guidelines found in this manual assist and guide the Department of Human Services and its representatives in carrying out their legal responsibilities in order to provide parents an option for accessing out-of-home treatment for their children without relinquishing legal custody when the child's circumstances fall within the intent of this program.

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**Scope of the Voluntary Treatment Program 850-05-05
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With an approval of the application for involvement with this program, the voluntary treatment program will pay for the maintenance costs of the treatment episode. Medicaid will pay for the treatment costs according to the state plan.

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Voluntary Treatment Services for Severely Emotionally Disturbed Children 850-05-10

**Definitions 85-05-10-01
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1. "Department" means the North Dakota Department of Human Services.
2. "Division" means the Division of Mental Health & Substance Abuse.
3. "Full authority for the child's voluntary out-of-home treatment and care" means that a party has complete control over a child's care and services rendered to that child.
4. "Legal custody" means the party to whom a court order has given custody or the child's parents when no legal action has removed legal custody.
5. "Physical custody and control" means that the child's physical body is under the care, custody, and control of a party other than the party with legal custody.
6. "Children with serious emotional/disorders/disturbances" are persons:
 - Up to age 18;
 - Who currently have a diagnosable mental, behavioral, emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM-IV; or
 - That resulted in a functional impairment of 50 or less on the GAF scale of the DSM-IV which substantially interferes with or limits the child's role or functioning in family, school, or community activities.

These disorders include any mental disorders (including those of biological etiology) listed in DSM-IV or their ICD-9-CM equivalent (and subsequent revisions), with the exception of DSM-IV 'V' codes, substance use, and developmental disorders, which are excluded,

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unless they co-occur with another diagnosable serious emotional disturbance.

Children must meet the GAF score criteria of 50 or less to initiate this service. Children who would have met functional impairment criteria during the prior year without the benefit of treatment or other support services are included in this definition.

Functional impairment is defined as difficulties that substantially interfere with or limit a child or adolescent from achieving or maintaining one or more developmentally-appropriate social, behavioral, cognitive, communicative, or adaptive skills. Functional impairments of episodic, recurrent, and continuous duration are included unless they are temporary and expected responses to stressful events in the environment.

7. "Out-of-home treatment facility" means a facility or agency that is operated by the state or is licensed to care and provide treatment to children and adolescents in the state of North Dakota.

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**Legal Authority 85-05-15
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Statutory authority for the voluntary treatment program comes from the North Dakota Century Code.

Authority Reference is:

- North Dakota Century Code [50-06-06.13](#)

N.D.C.C. 50-06-06.13 describes the authority given the Department of Human Services to develop the voluntary treatment program.

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**Organizational Responsibilities 850-05-20
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The voluntary treatment program is administered by the Department of Human Services through collaboration between the Division of Mental Health and Substance Abuse and the Children and Family Services Division.

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**Division Responsibilities 850-05-25
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Program administration responsibilities include:

1. Preparing requested reports on the voluntary treatment program.
2. Preparing and updating the manual chapter in accordance with policies established by the Department of Human Services.
3. Maintaining a database of children involved in the voluntary treatment program.
4. Processing all completed applications for the program using SFN 506, "STEP TWO: Voluntary Treatment Program Central Office Review."
5. Communicating decisions regarding the use of this program.
6. Reimbursing billed maintenance costs to treatment providers.
7. Assuming that children approved are referred to and receive intensive care coordination/case management.

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Access to Program 850-05-30

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1. Parents or legal guardians may apply for the voluntary treatment program by completing the Voluntary Treatment Program Application form, [SFN 507](#), and Multi Agency Authorization to Disclose Information, [SFN 970](#).
2. The Division will, upon receipt of a completed and signed application:
 - Review any past and/or current involvement with the child welfare system(s).
 - Review any past and/or current involvement with the juvenile justice system.
 - Review any past and/or current involvement with community-based services.
 - Verify that the child, who is the subject of the application, is a Medicaid recipient.
3. The review includes contact with out-of-state agencies if the parent(s) and child have lived in another state.

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**Voluntary Child Out-of-Home Treatment Agreement
850-05-35**

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Under this agreement, the parents or legal guardians do not give the Department legal custody of the child. The parents or legal guardians retain legal guardian authority and are obligated to continue to exercise and perform all parental duties and legal responsibilities except those delegated to the Division by the signed agreement. It is appropriate to enter into an agreement if the following conditions exist:

1. A signed and completed application has been received and reviewed by the Division, and the application has been approved.
2. The parent(s) sign and their signatures are notarized on the voluntary treatment agreement and are willing and able to abide by that agreement.
3. The parent(s) become involved or remain involved with an agency that is positioned to provide intensive care coordination/case management to assist in developing and implementing a plan for the return of the child to their home with appropriate supports and services in place.

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**Voluntary Treatment Program Review Team 850-05-40
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The Division will form a team to review applications for the voluntary treatment program that requires additional review. The team will be comprised, at minimum, of a representative with experience in child protection services and an experienced mental health professional and the administrator of the program.

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**Past or Current Involvement with County Social Services
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If a family has had involvement or is currently involved with a county social service agency and is requesting approval for involvement in the voluntary treatment program, the following information will be reviewed in order to help determine if the sole reason for out-of-home treatment is the child's behavioral or emotional needs.

- Previous and current county social service involvement. (Child Protection Services and other non-economic assistance services)
- The reason for involvement with the county social service agency(s).
- How the county agency involvement was initiated.
- How and if the county agency involvement primarily relates to the need for the child to receive treatment out of the home.

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**Child Protection History Applicability 850-05-50
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1. If the parent applying for this program has full legal custody and the other biological parent does not live with the family, then child protection history, if applicable, will be used for program determination as it pertains to the parent who has physical custody.
2. Child protection history will be used as it pertains to all adult(s) who currently live with the child seeking treatment.
3. If there is a pending CPS report/assessment, the findings of the assessment are needed before a decision can be made regarding the voluntary treatment program.

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**Juvenile Justice History Applicability 850-05-55
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1. If there is a pending juvenile court/or court of jurisdiction citation, the court will make and file its findings on whether the child committed the alleged acts before a decision on the voluntary treatment program application is made.
2. The only exception to the above is if the pending citation will not result in an adjudication of the child as delinquent, deprived, or unruly, and this action is verified by the court.

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Parental Signatures Needed on the Voluntary Treatment Agreement 850-05-60

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1. The voluntary treatment agreement must be signed by parents who have parental rights of the child needing out-of-home treatment. If the parental rights of a parent have been legally terminated, documentation of this court action must be provided to the Division.
2. If no termination of parental rights has occurred, the Division will seek a response from both parents. The Division will make reasonable attempts to contact an absent parent who has parental rights using the following means:
 - a. Basic Internet search; or
 - b. Certified mail to a known address with a return receipt.
3. The absent parent may respond in one of three ways:
 - a. Agree with the voluntary treatment agreement, sign the agreement, and have their signature notarized;
 - b. Disagree with the voluntary treatment agreement and return unsigned to the Division; or
 - c. No response.
4. If the program application has been approved and the Division receives a response indicating that a parent, whose signature is required, disagrees with the use of the voluntary treatment program, the Division will ask the court of jurisdiction for a judicial determination on what is in the best interest of the child.
5. If the Division does not receive a response from the absent parent in a reasonable amount of time, as determined by the Division and based upon the child's treatment circumstances, the Division will proceed with the voluntary treatment program process with the parent who has physical custody.
6. The Division may make an exception to an absent parent's need for response if extenuating circumstances are in place. Such situations

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may include the existence of a court order restricting contact of the parent with his/her child. Such exceptions will be based on a review by the Department's legal advisory unit.

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Prohibited Use of a Voluntary Out-of-Home Treatment Agreement 850-05-65

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Each application will be reviewed in total and individual circumstances considered; however, there are situations, which automatically will disqualify the application. A voluntary out-of-home treatment agreement is prohibited if:

1. An abuse or neglect report has been filed, and Child Protection Services has rendered a decision that services are required for any adult living with the child seeking treatment for behavior toward any child.
2. It is known or suspected that the parents or legal guardians of the child intend to move out-of-state during voluntary out-of-home treatment of the child.
3. A child refuses to remain at home solely due to parent-child conflict.
4. The parents or legal guardians request removal of the child because of an inability to tolerate or control the child's behavior, and the child and family members are unwilling to participate in an intensive services plan focused on reunification of the family.
5. The parents or legal guardians are unable or unwilling to work cooperatively with the division or the persons or private agency providing care and voluntary out-of-home treatment to meet the child's needs.
6. The child has been adjudicated as an unruly, deprived, or delinquent child.
7. The reason for the voluntary treatment program request is due primarily to issues relating to the parent's needs and not the child's behavioral or emotional treatment needs.
8. The child needs to be removed from the home primarily due to parental capacity concerns.
9. The child is not a Medicaid recipient.
10. The treatment sought is located out of state.

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11. The child does not meet the admission criteria and cannot access the licensed facilities in the state for reasons unrelated to availability of beds.
12. The child does not have a serious emotional disorder/disturbance.
13. The child will not return to a parent's home after the treatment episode is completed for reasons unrelated to normal adult transitional living changes.

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**Who May Give Consent to Voluntary Out-of-Home
Treatment 850-05-65-01**

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1. One parent's signature is sufficient to begin the application process.
2. Both parents who have parental rights or the person who has legal guardianship of a child must agree and sign the voluntary treatment agreement to activate the program. Unless circumstances listed in section [05-65](#) exist, both parental signatures on the voluntary treatment agreement are required.
3. If there is a parental disagreement, a judicial determination by the juvenile court will be requested to determine the best interests of the child.
4. An Indian child who is a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe may be accepted into the voluntary out-of-home treatment program in accordance with the Indian Child Welfare Act

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**Voluntary Out-of-Home Treatment Review 850-05-65-05
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1. With the approval of the Division, a new agreement may be signed and shall be valid for a maximum of an additional year or up until the child's eighteenth birthday.
2. The Division must approve a voluntary treatment agreement beyond twelve months and receive documentation that the placement is for treatment purposes.

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Termination of Voluntary Agreement 850-05-65-10
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1. The Division shall release a child from the voluntary out-of-home treatment program if the parent or guardian who signed the voluntary out-of-home treatment agreement notifies the Division of their desire to terminate the voluntary agreement. The parent or guardian shall confirm in writing the request for termination of the agreement and shall confirm that they have legal custody of the child before the child is released by the Division.
2. If the parent or legal guardian is not acting in the best interests of the child or is acting against the professional advice of the care or voluntary out-of-home treatment provider or the Department and the child continues to be dependent for care and support on a public or private child caring agency, the agency providing out-of-home treatment may file a report suspecting child abuse or neglect and ask the county to petition the court for legal custody of the child.
3. If a parent or legal guardian has requested the termination of the voluntary agreement and the child is in imminent danger or there is reason to believe the child's welfare is in jeopardy, that information of suspicion of abuse and neglect of the child will be provided to the county social service agency of the child's jurisdiction and ask that the child be taken into protective custody and the court petitioned for legal custody.
4. Eligible children under the Indian Child Welfare Act, who are in voluntary out-of-home treatment with the Division, shall immediately be released to a parent or Indian custodian upon withdrawal of a voluntary consent.
5. The parents are not following through with the agreed upon responsibilities in the voluntary treatment agreement.
6. Child has turned 18.

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Appendix 850-05-70

**Voluntary Treatment Agreement (Sample) 850-05-70-01
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**Parental Request for Continuation of Voluntary Treatment
Program (Sample) 850-05-70-05**

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**Voluntary Treatment Program Application Step One,
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