

Disability Benefit Specialist Program ADRC Operations Manual

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I. Introduction

A. Definitions

1. Agency: used when referring to aging and disability resource centers (ADRCs), the Office of the Deaf and Hard of Hearing (ODHH), and the Tribal disability benefit specialist (DBS) service provider in combination.
2. DHS: Wisconsin Department of Health Services.
3. Disability benefit specialist (DBS): a person performing disability benefit counseling as described in [section I.C.](#) Unless otherwise noted, the term DBS includes DBSs located within ADRCs, Tribal DBSs, and the Deaf DBS employed through ODHH.
4. Informed consent: permission granted by the customer to share or obtain confidential information with another person or entity. Obtaining informed consent includes explaining to the customer that the information shared with the DBS is kept in confidence. It also includes explaining to the customer that by signing a client services agreement, the customer's information may be shared with the DBS' technical assistance provider, supervisor, and the DBS program manager without further consent by the customer. It is best practice to inform customers about how their information will be used and to obtain at least a verbal consent, even when consent is not strictly required.
5. Merit: a term used to describe that a customer's claim is valid considering available information and applicable policies and regulations governing the disability benefit. See [section VI.D.](#) for more information.
6. Program attorney: an attorney employed by either the program attorney service provider or through sub-contract with the Tribal DBS service provider to give substantive, programmatic support to the DBSs. Program attorneys employed by either organization provide the services and abide by the responsibilities in this operations manual, unless otherwise specified within this manual or through the pertinent Scope of Services.

7. Program attorney service provider: the organization providing program attorney services under contract with DHS. Unless otherwise specified, services provided by this organization are limited to DBSs located within ADRCs or hired through ODHHS.
8. Tribal disability benefit specialist service provider: the organization contracted with DHS to provide DBS services to eligible Tribal members.

B. Availability of DBS services

1. DBS services are available to an individual who meets all the following criteria:
 - a. Resides within the ADRC service area
 - i. Customers experiencing homelessness may receive DBS services without proving residency.
 - ii. Customers experiencing homelessness may move between service areas (for example, by gaining temporary shelter in another county). To ensure continuity of services, the DBS may continue working with the customer until the completion of that case, based on the customer's preference.
 - b. Is aged 17 years and 6 months through 59
 - i. The DBS may provide services to a customer aged 17 years and 6 months who is in the process of transitioning to the adult service system.
 - ii. The DBS should continue to assist customers who turn 60 while having an open DBS case. New or additional issues that arise after the customer turns 60 should be referred to the elder benefit specialist.
 - c. Identifies as being a member of a population served by ADRCs; that is an adult with a physical disability, intellectual or developmental disability, mental health disorder, or substance abuse disorder
 - d. Requests benefits counseling or advocacy services within the parameters of the [DBS Programs Services Scope](#) available on the [DBS SharePoint site](#).
2. Tribal DBSs serve Tribal members who reside in Wisconsin. Tribal members may choose to receive services through either the ADRC or the Tribal DBS service provider. Use [Tribal Disability Benefit Specialists Regions and Contact Information](#) (P-03536) to refer a Tribal member to a Tribal DBS.

3. Customers who are Deaf, Deaf-Blind, or hard of hearing may choose to receive DBS services through either the ADRC or ODHHS.
4. Disability benefit specialist services must be provided in a manner convenient to the customer, including, but not limited to, in person in the customer's home or at the ADRC office as an appointment or walk-in, over the phone, virtually, via email, or through written correspondence.

C. Description of DBS services

1. Disability benefits counseling is defined as assistance and advocacy in obtaining and maintaining public benefits. An advocate proactively assists the customer to achieve their benefits-related goals. Benefits counseling includes:
 - a. Providing accurate and timely information about the benefits and services within the [DBS Program Services Scope](#) so that customers understand their options and responsibilities and can make informed choices about their benefit and service options.
 - b. Providing a benefits check-up to help the customer understand the benefits or services for which they may be eligible.
 - c. Aiding with application for or renewal of benefits and services within the [DBS Program Services Scope](#). This includes assisting customers to gather supporting documentation.
 - d. Assisting customers to complete and submit appeals for denied benefits or services within the [DBS Program Services Scope](#).
 - e. Providing advocacy services to assist the customer in obtaining or maintaining benefits, including, but not limited to:
 - i. Leveraging knowledge of program benefits to overcome barriers for the customer.
 - ii. Analyzing the case record to discover facts relevant to case development.
 - iii. Developing a theory of the case and a strategy for supporting the theory.
 - iv. Seeking and developing evidence favorable to the customer.
 - v. Negotiating with decision-makers to seek a favorable resolution of a dispute.

- vi. Representing customers in benefit applications or appeals in accordance with direct representation guidelines (see [section V.D.](#)).
2. Benefits counseling does not include:
 - a. Determining or certifying the customer's eligibility for a benefit or service.
 - b. Providing case analysis, application, or appeal assistance outside the [DBS Program Services Scope](#).
 - c. Providing substantive information about programs outside of the [DBS Program Services Scope](#).
 3. In fulfilling the role of an advocate, the DBS:
 - a. Identifies the customer's goals and barriers or complications that may arise during pursuit of those goals.
 - b. Recognizes and respects the customer's right to self-determination in advancing their goals, rather than determining what is in the best interests of the customer, within program policies.
 - c. Identifies what benefits and/or services are appropriate for the customer, given the customer's goals, which may include benefit programs that were not requested specifically by the customer but which further the customer's goals.
 - d. Presents the pros and cons of the different options and advocacy avenues to the customer.
 - e. Proactively uses all advocacy tools at their disposal to help the customer achieve their benefit goals.
 - f. Withholds judgement about the customer's goals.
 - g. Does not allow personal or professional relationships or values to interfere with their role as an advocate.
 - h. Recognizes that in some circumstances they need to decline or terminate the provision of services (see [section III.F.](#)). These circumstances may include, but are not necessarily limited to, situations in which:
 - i. The means to achieve the customer's goals is outside of the [DBS Program Services Scope](#).
 - ii. The law requires a course of action contrary to the customer's interests.
 - iii. There is simply no means by which the customer's goal can be accomplished.
 - i. Identifies and documents concerns of individuals with intellectual or developmental disabilities, physical disabilities, mental illness, or substance use disorders, and related system-level issues to present this information to appropriate entities, including county or Tribal government, DHS, and statewide councils representing disability constituencies.

Note: See [section VIII.A.](#) for an example of DBS advocacy services.

D. Prohibited activities

1. To avoid potential conflicts of interest, the DBS may not perform the long-term care functional screen, Supplemental Security Income Exceptional Expense Supplement (SSI-E) eligibility determination or certification, or any other eligibility determination. Additionally, the DBS cannot provide guardianship or adult protective services.
2. Organizational limitations regarding staff or funding may make it necessary to combine other activities with DBS activities to create a full-time position. To avoid conflicts of interest, all combinations of activities that include DBS work must be submitted to DHS for approval prior to implementation. Proposals must include non-DBS activities unrelated to functional or financial eligibility determinations.
3. Proposals for combinations of activities that do not pose a potential conflict of interest and that maintain customer confidentiality will be approved. An example is combining DBS activities with information and assistance activities.

E. Structure of the DBS program

1. The DBS program is a partnership between ADRCs, the Tribal DBS service provider, the program attorney service provider, and DHS.
2. Through the contract between DHS and ADRCs, all ADRCs are required to maintain a minimum of 0.5 full-time equivalency (FTE) DBS to provide disability benefit counseling services.
3. Tribal DBS services are provided by the Tribal DBS service provider through a contract with DHS.

4. The program attorney service provider is contracted by DHS to provide training (see sections [III.B.](#) and [VI.E.](#)) and program attorney services to DBSs located at ADRCs and ODHH.
5. DHS is responsible for the general oversight of the DBS program.

F. Collaborating with other aging and disability programs

1. The DBS must have a strong understanding of the role of ADRC specialists, as the DBS will encounter customers who may benefit from options counseling regarding long-term care services and supports.
2. The DBS refers customers who are aged 60 or older to an elder benefit specialist (EBS).
3. The DBS should be familiar with other aging and disability service providers (for example, Division of Vocational Rehabilitation (DVR) and work incentives benefit counselors) and community resources in order to provide referrals, as needed and appropriate, for customers to access benefits and services outside the [DBS Program Services Scope](#).

II. Reporting Requirements, Allowable Funding Sources, and Resources

A. Reporting requirements

1. Reporting requirements are outlined in the [Elder and Disability Benefit Specialist Programs](#) chapter (P-03062-05).

B. Funding sources

1. ADRC grant
2. State Health Insurance Assistance Program (SHIP) and Medicare Improvements for Patients and Providers Act (MIPPA) grants

C. Resources

1. [Time and Task Reporting-ADRC Operations Manual \(p03062-10\)](#)
2. Supplemental [Disability and Elder Benefit Specialist \(DBS and EBS\) Time Reporting Quick Guide](#)
3. [ERI Learning Management System](#)
4. [PeerPlace Information for Benefit Specialists](#)

III. General Policies and Procedures

A. Education and experience requirements

1. Employees of the ADRC, the Tribal DBS service provider, and subcontractors must possess the knowledge and skills necessary to perform all their assigned responsibilities and provide all services in a competent and professional manner.
2. Employees of the ADRC, Tribal DBS service provider, and subcontractors who provide benefit counseling must have:
 - a. A Bachelor of Arts or Science degree (preferably in a health or human services related field) or a license to practice as a registered nurse in Wisconsin pursuant to Wis. Stat. § 441.06.

- b. The equivalent of at least one year of full-time experience in a health or human service field, working with one or more of the customer populations served by the ADRC (elderly, adults with physical disabilities, or adults with intellectual or developmental disabilities). Qualifying work experience may be paid or unpaid and may include internships, field placements, and volunteer work.
- c. If a prospective candidate does not meet the requirements of a and b, the ADRC or Tribal DBS service provider must request and receive approval from DHS prior to making an employment offer. The Requests must be made using the [ADRC/Aging/Tribal Agency Request for Approval of Alternative Staff Experience and/or Training Form](#) (F-00054). Approval is at the discretion of the Bureau of Aging and Disability Resources (BADR).

B. Training requirements

1. To effectively serve customers, DBSs must develop and maintain an in-depth knowledge of a wide array of benefits available to individuals with disabilities as well as the skills to appeal eligibility decisions and pursue other advocacy strategies. For this reason, DHS requires that all DBSs complete program orientation, initial training, and mandatory ongoing training.
2. After receiving the newly hired DBS's contact information, the DBS program manager sends the new DBS a welcome email with information related to the program orientation. The DBS program manager includes the DBS's supervisor and program attorney on that email.
3. The dates for initial training and mandatory ongoing training events are identified in the annual DBS Training Calendar, available on the [ADRC SharePoint](#) and [DBS SharePoint](#) sites. There are no registration costs for the initial training or mandatory ongoing training.
4. Initial training, also referred to as basic training, is coordinated by Employment Resources, Inc. (ERI) and the program attorney service provider. The initial training is provided to all newly hired DBSs and comprises online courses, live group trainings (in-person or virtual), and job shadowing.
 - a. Some classes have prerequisites that must be completed prior to attending the training.

- b. The program attorney tracks the DBS's progress through the online courses and can assist with any questions about course content.
 - c. Throughout the initial training period, the DBS is encouraged to seek technical assistance and support from the program attorney as often as needed.
 - d. Enrollment in initial training courses is not time-limited; the material can be revisited at any time.
 - e. The newly hired DBS spends a minimum of one day shadowing an experienced DBS, either in their own place of employment or at the ADRC of an experienced DBS. The program attorney may assist in identifying an experienced DBS for the newly hired DBS to shadow. Job shadowing provides the newly hired DBS with an opportunity to learn more about day-to-day processes such as maintaining case files, interviewing customers, and filling out online applications.
 - f. The newly hired DBS attends a day-long event at the Disability Determination Bureau (DDB) in Madison, featuring a series of presentations by DDB staff, contingent upon DDB availability.
 - g. A DBS who vacates their position and later returns to the DBS program must repeat the initial training if they completed the initial training more than two years previously. A waiver may be granted if determined appropriate by the DBS program manager and the program attorney service provider.
5. Mandatory ongoing training, coordinated by the program attorney service provider, is provided to all DBSs through a minimum of eight events each year. These events are live group trainings and may include webcasts, regional in-person events, and statewide in-person events.
 6. If the DBS is unable to attend a mandatory training event, they should contact their program attorney, ideally in advance of the event, to discuss options for making up the missed training to the extent feasible.
 7. The DBS should view virtual group trainings live whenever possible. A DBS who misses a live virtual training is expected to watch the archived webcast promptly to ensure they are receiving timely information and updates.
 8. The DBS's attendance is tracked by the program attorney service provider for all the events listed as mandatory in the annual DBS Training Calendar.

- a. The program attorney service provider informs the DBS's direct supervisor and the DBS program coordinator if a pattern of unexcused absences is identified.
 - b. Attendance records are included in the annual review summary and provided upon request to the DBS program manager.
 - c. Attendance of virtual trainings may be tracked through the virtual training platform's attendee list or another format (for example, an online survey).
9. If the DBS does not think a given training topic would be useful, given their skills and experience, the DBS may contact their program attorney to discuss the matter. The DBS should be prepared to propose an alternative training event that would be more useful to them. The program attorney considers such requests based upon an assessment of the DBS's current knowledge and skills.
10. DBSs who attend a mandatory, ongoing training in full are provided with a certificate of attendance for the purpose of continuing education hours, credits, or units. Attendance records are used to verify the DBS's attendance prior to issuing a certificate. Certificates are sent through email.
11. Availability of DBS trainings to non-DBS staff:
 - a. A program attorney contracted by the Tribal DBS service provider may attend any DBS training.
 - b. Ongoing trainings are available only to DBSs.
 - c. Initial training (including live group sessions) is available only to DBSs, DBS assistants, and DBS supervisors. Note: DBS assistants and DBS supervisors are not required to or expected to attend the live group trainings. If they choose to attend, they must complete all the components of that training, as defined in [section III.B.4](#). This includes meeting deadlines, completing prerequisites, and attending all portions of the training. If requirements are not met, they cannot participate in further basic training sessions for that segment of the training.

DBS assistants and DBS supervisors who are interested in completing part or all of the DBS initial training must contact the [DBS program manager](#) to confirm eligibility. DBS assistants and DBS supervisors must contact the program attorney services provider to confirm prerequisite coursework and deadlines.

12. Questions or concerns about the date or location of trainings and suggestions for future training topics should be directed to the program attorney service provider. Questions or concerns about the DBS training requirements or difficulties accessing online training materials or webcasts should be directed to the [DBS program manager](#).

C. Confidentiality and permissive reporting

1. The confidentiality standards for DBS services derive from Wis. Admin. Code § DHS 10.23, Standards for performance by ADRCs:

“...a benefit specialist may not disclose information about a client without the informed consent of the client, unless required by law. A disability benefit specialist may also disclose information about a client without the informed consent of the client as permitted under s. 55.043 (1m)(br), Stats., if there is reasonable cause to believe that the adult at risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable to make an informed judgment about whether to report the risk or if an adult at risk other than the subject of the report is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator.”

2. The DBS must inform the customer if another staff member provides administrative support; for example, scanning records into an electronic case file, completing data entry in the reporting and case management system, or mailing letters to the customer. DBSs should document this on the [Disability Benefit Specialist Program Client Services Agreement](#) (F-02562).
3. Wisconsin Stat. §§ 55.043(1m)(b) and 46.90(4)(ab)1, require reporting of abuse, financial exploitation, neglect, or self-neglect in limited situations by social workers, registered nurses, and others if the elder adult/adult at risk is seen in the course of the person's professional duties. DBSs are not named in the list of professionals who are limited required reporters. Because DBSs who hold licenses as social workers or registered nurses are not seeing customers “in the course of their professional duties,” the confidentiality standard for all DBSs is Wis. Admin. Code § DHS 10.23.

4. Although DBSs are not required to report abuse, neglect, financial exploitation, or self-neglect, DBSs may report these situations under Wis. Stat. §§ 55.043(1m)(b) and 46.90(4)(ab)1.
 - a. Reporting is allowed with the informed consent of the customer. (Either the customer asks for help, or the DBS asks if the customer wants help, and the customer agrees that the DBS should make a report). The DBS must inform the customer that a report will be made to the county elder adults and adults- at-risk agency and that staff from that agency will respond to the report and likely will offer recommendations on services or programs that will address safety and related concerns.
 - b. Reporting may be required by law. DBSs are not required reporters as defined in Wis. Stat. § 55.043(1m)(b) but a DBS may be required to disclose otherwise confidential information in response to a court order. DBSs must consult with their supervisor and program attorney in the unlikely event that information is requested by the court.
 - c. Reporting is allowed if there is reasonable cause to believe that the customer is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable to make an informed judgment about whether to report the risk. Imminent threat means it is more likely than not that the customer will be subjected to serious bodily harm, death, sexual assault, or significant property loss in the immediate or near future.
 - d. Reporting is allowed if an adult-at-risk other than the DBS's customer is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator.
 - e. Making a report in good faith under any of the four circumstances above provides the DBS with immunity from criminal, civil and professional liability according to Wis. Stat. §§ 46.90 (4)(c) and 55.043 (1m)(d).
5. Making a report does not require naming an alleged perpetrator.
6. DBSs must consult with their supervisor (or program attorney if their supervisor is not available) before making a permissive report as described in [sections III.C.4.c. and III.C.4.d.](#) above, unless the situation is emergent and there isn't sufficient time. The supervisor and/or program attorney can explain permissive reporting guidelines. DBSs can discuss application of the guidelines to case-specific facts with their supervisor. The supervisor and/or program

attorney cannot decide whether a report should be made. The DBS makes the final decision whether to make the report. Questions to consider when deciding whether to make a permissive report include:

- a. Is the DBS's belief about the customer's circumstances reasonable?
 - b. Is the risk to the customer imminent?
 - c. Is the customer at imminent risk of serious bodily harm?
 - d. Is the customer at imminent risk of death?
 - e. Is the customer at imminent risk of significant property loss?
 - f. Is the customer at imminent risk of sexual assault?
 - g. When or why is the customer unable to make an informed judgment about whether to report the risk?
 - h. Is there a third party, someone other than the customer, who is at risk of serious bodily harm, death, sexual assault, or significant property loss?
 - i. Are there better ways to protect the customer or third party?
7. Standards to consider for making a permissive report.
- a. The term "serious bodily harm is defined in Wis. Stat. § 969.001(2) as " ... bodily injury which causes or contributes to the death of a human being, or which creates a substantial risk of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury."
 - b. The significance of a financial or property loss to the customer does depend not so much on its absolute monetary value as it does on the impact the loss has on the customer's financial and psychological well-being.
 - c. The capability for making an informed decision includes whether the customer is intellectually capable of making an informed judgment about whether to report the risk, and whether the customer is emotionally or psychologically capable of making such an informed judgment.
 - i. If the customer has a guardian or if there is an activated power of attorney, this fact alone does not automatically mean that the customer is intellectually incapable of making an informed judgment about whether to report the risk. While due weight should be given to the fact that there is a guardian or an activated power of attorney, the DBS should also consider any other factor, such as the degree to which the

customer understands what is going on around them at any given moment, that could help the DBS decide how intellectually capable the adult-at-risk is.

- ii. In determining whether the customer is emotionally capable of making an informed judgment about whether to report the risk, the DBS should keep in mind that the customer may fear retaliation from the abuser and/or may be emotionally dependent on the abuser for affection or approval. The more such factors are present in the situation, the less likely it is that the customer is emotionally capable of making an informed judgment about whether to report the risk.
8. It is best practice to document decisions about permissive reporting. Documentation should include:
 - a. The person(s) from whom the DBS sought consultation.
 - b. The advice received.
 - c. The reasons for abiding by or rejecting the advice.
 - d. The reasons for the DBS's final decision to report or not report.
 9. See the [Confidentiality Policy](#) (P-02923-06) for additional information about confidentiality at ADRCs.

D. Case acceptance

1. The DBS opens a case for a customer when the customer is eligible for DBS services (see [section I.B.](#)) and one or more of the following are true:
 - a. The DBS provides an in-depth analysis, using customer-specific information, to advise and/or educate the customer on their options and/or responsibilities related to benefits and services within the [DBS Program Services Scope](#).
 - b. The DBS provides follow-up information or services to the customer after the initial contact. Follow-up includes researching needed information to resolve the customer's issues and/or providing direct assistance or advocacy to help the customer obtain or maintain benefits and services within the [DBS Program Services Scope](#) (see [section I.C.](#)).

2. The DBS applies the client services agreement, case closure, and case termination policies and processes to all cases (see sections [III.E.](#) and [III.F.](#)).
3. The DBS does not open a case for a contact that is considered informational in nature. Informational contacts are low in complexity and often brief. A contact is considered informational in nature when one or both of the following is true:
 - a. The DBS provides general information about benefits and/or services. A contact may be informational in nature even if the DBS needs to clarify customer-specific facts to provide accurate information. For example, the DBS may need to clarify a customer's income source or health care plan to answer a general question about a benefit or service.
 - b. The DBS only provides a referral(s) to another entity for assistance.
4. The DBS considers the content and outcome of their interaction with the customer, not the length of time spent on the contact and follow-up, to determine whether a contact is treated as a case or is considered informational.
5. The agency prioritizes the extent of assistance and advocacy provided on each case. In setting priorities, the agency can consider:
 - a. The merit of the case (see [section VI.D.](#)).
 - b. Potential benefit to the customer in comparison to resources expended.
 - c. Availability of staff and other resources (for example, travel).
 - d. Availability of evidence or documentation to support the customer's claim.
 - e. Availability of other avenues of assistance (for example, social services staff at hospitals or skilled nursing facilities, Legal Services Corporation, private attorney, other agencies or programs, or volunteers).
 - f. The customer's cooperation in seeking services. Note: there may be evidence from past representation to consider.
 - g. The customer's ability to participate in pursuing the case. Note: there may be evidence from past representation to consider.
 - h. Ability to maintain the customer's and the DBS's safety. Note: there may be evidence from past representation to consider.

- i. The DBS’s knowledge of issue area(s).
- 6. Customers without a legal guardian or alternate decision maker (for example, a power of attorney) must provide explicit permission for disability benefit specialist to work with a representative on their behalf. If a customer is not able to provide consent to services and lacks a legal decision maker, disability benefit specialists are limited to providing general information and referrals.
 - a. When a customer has a legal decision maker, fully include the customer in conversations and decisions based on the customer’s capability.
 - b. There are situations in which it may be appropriate to decline or terminate services while working with a customer who has a legal decision maker. For example:
 - i. Assisting the legal guardian would create a conflict of interest. It is appropriate to decline or terminate services if there is a conflict of interest. The disability benefit specialist should consult with their supervisor as soon as a conflict of interest is identified.
 - ii. The customer’s objectives conflict with the legal decision maker’s goals. That is, the customer refuses the disability benefit specialist’s help or refuses to cooperate with the case. While the disability benefit specialist can continue to work with the legal guardian, if the customer’s non-cooperation hinders the disability benefit specialist’s ability to advocate for the customer, it may be appropriate to decline or terminate services. The disability benefit specialist should consult with their supervisor to determine whether to terminate the case.
- 7. When a customer moves to a new county while having an open case with a DBS in the previous county, the standard practice is for the case to close in the originating county and open in the new county.
 - a. With a signed release of information, the original DBS may send case file documents and associated case notes to the receiving DBS. The reporting and case management system does not allow electronic cases to be transferred to the new agency.
 - b. Exceptions to transferring the case may be made when a customer requests and extenuating circumstances warrant the case to stay with the original DBS. Examples of extenuating circumstances include (but are not

limited to) customers who are experiencing homelessness, customers with a legal guardian, or customers for whom transferring their case could jeopardize their claim.

8. When there is doubt about whether a case can be accepted, the DBS's supervisor may consult with the program attorney or the DBS program manager.

E. Client services agreements

1. Prior to providing customer-specific benefit counseling or advocacy, the DBS must present the customer with a [Disability Benefit Specialist \(DBS\) Program Client Services Agreement \(CSA\)](#) (F-02562) and offer the customer an opportunity to ask any questions they may have. This exchange may occur in person, through a virtual platform (for example, Zoom), over the phone, or by email. The DBS is required to use a CSA for all DBS cases. If the customer is not able to sign the CSA in person, the DBS may use one of the following alternatives:
 - a. Use the [DocuSign version of the CSA](#), allowing the customer to provide an electronic signature. Refer [TA 21-01A: ADRC and Tribal ADRS Staff Directions to Send a DocuSign Form](#) for guidance on using DocuSign.
 - b. Mail the CSA to the customer so that the customer can sign the form and return it by mail.
 - c. Send the CSA via email. The customer may return the signed form to the agency as a scanned document or as a picture of the signed document attached in an email.
 - d. Accept a customer's verbal signature over the phone. This verbal consent must be noted in the reporting and case management system and included on the CSA form (for example, by including a note on the client signature line). It is best practice to follow up with the customer either by mail, by email, or in person to obtain a signed CSA for the record.
 - e. Accept a customer's consent through an emailed statement after having discussed the CSA contents with the DBS either by phone or email. The customer's consent email can then be attached to a blank CSA for the file. It is best practice to follow up with the customer either by mail, by email, or in person to obtain a signed CSA for the record.

2. The DBS must review the CSA with the customer (and their guardian, when applicable):
 - a. Before providing services.
 - b. Any time the scope of the current CSA changes.
 - c. Annually if the case remains open for more than one year.
3. The purpose of the CSA is to:
 - a. Inform the customer about the nature and scope of the service(s) to be provided.
 - b. Inform the customer about the confidential nature of the service(s).
 - c. Inform the customer about the delineation of responsibilities between the customer and the DBS.
 - d. Inform the customer that their confidential information may also be viewed by the technical assistance provider, the DBS's supervisor or the Tribal DBS service provider, and by the DBS program manager, as needed.
 - e. Provide the customer with the opportunity to give informed consent to the disclosure of information about their case by the DBS.
4. A CSA is not needed for general information or referral contacts.
5. The [Client Services Agreement for Medicare Counseling](#) documents the nature and scope of services provided when assisting customers with Medicare plan comparisons and/or enrollment. An agency may choose to use this form in place of the Disability Benefit Specialist Program CSA when performing services related only to Medicare counseling.
6. The [Appointed Representative Agreement](#) is used to document the nature and scope of services provided when signing on as a customer's appointed representative. This agreement is a supplement to the [DBS Program CSA](#) and must accompany the DBS Program CSA when the DBS has agreed to be the customer's appointed representative.
7. An agency may only modify the content or format of the [DBS Program CSA](#), [Medicare Counseling CSA](#), or [Appointed Representative Agreement](#) with prior written approval of the [DBS program manager](#).

8. When working with a youth between ages 17 years and 6 months and 18 years, best practice is for the youth and their parent or guardian to sign the CSA when opening the case, and to review the CSA and obtain the customer's signature when the customer reaches their 18th birthday.

F. Case closure and termination

1. Case closure describes the discontinuation of DBS services resulting from the natural resolution of issues in a customer's case. For example, the DBS assists the customer with completing an application and gathering supporting documentation for Medicaid, and the application is approved. When the DBS closes a case, the DBS:
 - a. Documents the reason for closing the case in the reporting and case management system.
 - b. Mails a closing letter to the customer.
2. Case termination describes the discontinuation of DBS services before the natural resolution of the issues in a customer's case; for example, the customer is no longer eligible for services through the DBS program. See [Service Limitation and Termination Policy](#) (P-02923-08) for additional guidance.
3. The decision to terminate a customer's case is made in consultation with the DBS's supervisor.

G. Caseload management

1. The agency is responsible for managing the DBS caseload.
2. The program attorney can provide information to the DBS supervisor regarding the appropriateness of the DBS caseload; however, the program attorney does not have access to the DBS reporting and case management system or knowledge of other agency responsibilities, such as performing outreach activities.
3. The program attorney provides a caseload assessment as part of the annual review (see [section VI.B.](#)).
4. See [Caseload Management Guidelines for Benefit Specialist Services](#) (P-03062-05) for additional guidance.

H. DBS vacancies, absences, and transitions

1. See [Vacancies, Absences, and Transition](#) (P-03062-05) for guidance.

I. DBS assistants

1. See [Benefit Specialist Program Assistant Positions](#) (P-03062-05) for guidance.

J. Complaints

1. DBS must provide customers with information about the process for filing complaints or grievances regarding the provision or denial of DBS services in accordance with the ADRC's or Tribal DBS service provider's complaint and grievance policy. See [Complaint Policy](#) (P-02923-02).

K. Referrals to private attorneys

1. Customers are required to seek representation from a private attorney for appeals at the administrative hearing level and higher. In consultation with the program attorney, exceptions may be granted when:
 - a. A customer would have significant difficulty contacting or communicating with a private attorney due to the nature of the customer's impairment(s) and/or circumstances.
 - b. The facts of the customer's case support requesting an on-the-record decision. DBSs must discuss the case with their program attorney before requesting an on-the-record decision.
 - c. The customer's claim is a non-fee generating claim; for example, claims in which the customer is receiving continued benefits, overpayment claims, Medicaid appeals, etc.
 - d. Other circumstances exist that would substantially limit the customer's ability to secure private representation.
2. When a customer's claim through the Social Security Administration is denied at reconsideration, the DBS:
 - a. Determines the deadline for filing the appeal.

- b. Explains the appeal deadlines to the customer.
 - c. Explains the process for filing the appeal. The DBS may assist the customer with filing the appeal; however, unless the DBS is the customer’s appointed representative, the customer is responsible for ensuring their appeal is submitted before the deadline. When acting as an appointed representative, the DBS must ensure that the hearing request is submitted timely.
 - d. Unless the customer meets an exception, explains the requirement to seek private representation for the administrative hearing. Best practice is for DBSs to compile a list of private attorneys and legal service providers in the local community who are willing to represent customers appealing decisions from the Social Security Administration. If the DBS is the customer’s appointed representative, the DBS must withdraw from being the appointed representative. If the customer’s case is rejected by at least two private attorneys, the case can be considered for representation through the DBS program. Decisions regarding case acceptance must be made as quickly as possible; however, the DBS and/or program attorney may request additional information to make their decision.
3. Considerations for communicating with private attorneys and/or customers represented by private attorneys:
- a. DBSs must consult with their program attorney prior to contacting a private attorney about a customer’s case.
 - b. DBSs must not advise customers about matters the customer is already working on with a private attorney.
 - c. With the customer’s informed consent, a DBS may contact an attorney to inform them that a customer requested assistance from the DBS program.
 - d. With the customer’s informed consent, a DBS may provide the attorney with information and/or documentation relevant to the case.
 - e. DBSs must consult with their program attorney if they learn that a customer has secured other representation while the DBS is acting as the customer’s appointed representative.
 - f. DBSs may provide benefits counseling and assistance with a new application while a customer is represented by a private attorney for a claim in federal court. DBSs should consult with their program attorney before accepting the case.

4. DBSs may provide customers who are requesting representation in federal court with a list of attorneys identified as willing to consider federal court cases.

L. Other policies

1. DBSs must adhere to the [ADRC Conflict of Interest Policy \(P-02923-03\)](#).
2. DBSs at ADRCs must adhere to the [Complaint Policy \(P-02923-02\)](#). The Deaf Disability Benefit Specialist follows the [ODHH Complaint Policy and Process \(P-03382\)](#). The Tribal DBSs adhere to the complaint policy established by the Tribal DBS service provider.

IV. Agency Responsibilities

A. Physical accommodations

1. Although an ADRC may allow a DBS to maintain an office location outside of the ADRC (for example, a home office), the ADRC must be the primary office location for the DBS, including subcontracted staff, when serving the public as an office appointment or walk-in. This requirement does not apply to Tribal DBSs or the Deaf DBS employed through ODHH. Any other exceptions must be approved by the DBS program manager.
2. The agency must ensure the DBS has access to business tools necessary to do their work. For example, a phone, high-speed internet access, the capability to view high-quality streaming trainings and webcasts, a printer, a webcam, a computer, a desk, and a lockable file cabinet.
3. The agency must ensure the DBS has access to a private workspace such as an office with a door or access to a private meeting area. Private meeting areas must have internet and phone access to facilitate confidential online or phone applications and technical assistance consultations with the program attorney.

4. The agency must request access to required systems including the reporting and case management system and the [DBS SharePoint site](#).
5. The agency must provide the DBS the ability to access the program attorney service provider's online secure file transfer protocol (SFTP) platform. Documents (including but not limited to PDFs, Word, Excel) containing personally identifiable information (PII) or protected health information (PHI) must be shared through the SFTP platform. Documents cannot be shared through email. Emails containing PII and/or PHI must be sent as an encrypted email. Sending customer information by fax is a last resort. Only documents that are 15 pages or less may be sent by fax.

Exceptions to this policy must be approved by the DBS program manager and are determined on a case-by-case basis.

6. If the ADRC has subcontracted with another entity to provide DBS services, the ADRC must supply the employing agency with the following documents:
 - a. The [Disability Benefit Specialist Program \(P-03062-05a\)](#) section of the ADRC Operations Manual.
 - b. The [DBS Program Services Scope](#).

B. Supervision

1. The agency must have a local supervisor for the DBS. The supervisor is responsible for employment-related oversight and support of the DBS, which includes, but is not limited to:
 - a. Hiring decisions.
 - b. Managing time off.
 - c. Monitoring job performance.
 - d. Completing performance evaluation.
 - e. Ensuring compliance with all general policies and procedures (see [section III](#)).
 - f. Ensuring compliance with reporting requirements (see [section II](#)).

2. If the ADRC has subcontracted with another entity to provide DBS services, the ADRC must have a written agreement with the employing agency describing the supervisory duties of both agencies.

C. Additional responsibilities

1. The agency is responsible for the following areas:
 - a. Managing documents and customer files.
 - i. Agencies may use support staff for various administrative tasks, for example, mailing letters, making appointment reminder calls, and scanning documents for electronic storage. Records that are retained (including records stored electronically) must be protected to limit access only to staff who administer the program, that is, the DBS(s), the DBS's supervisor, and administrative staff who manage electronic storage of the DBS records.
 - ii. Often customer files contain records obtained from third parties. These records may include sensitive medical and behavioral health records as well as the names and contact information of staff at community partner organizations. Agencies must exercise care in re-releasing records obtained from third party organizations. Agencies are encouraged to work with their legal counsel to establish a written policy and process to release records directly to a customer and/or their representative. Establishing the validity of surrogate decision-making documents; that is, the agency determines whether the documents support the DBS's ability to work with a surrogate decision-maker. The program attorney is available to help the DBS determine whether the surrogate decision-maker is authorized to apply for benefits or manage other benefit-related matters on the customer's behalf.
 - b. Identifying and resolving conflicts of interest for serving customers who seek DBS services.
 - c. Providing interpreting services for customers with limited English proficiency.
 - d. Complying with Americans with Disabilities Act (ADA) requirements.
 - e. Referring customers to private attorneys.
 - f. Conducting home visits.
 - g. Conducting community outreach activities.

V. DBS Responsibilities

A. Responsibilities to the agency

1. The DBS is responsible for adhering to the employment rules and receiving supervision from their hiring agency.
Note: a DBS hired through a sub-contract with the ADRC may need to adhere to additional rules set forth by their employing agency.
2. The DBS is accountable to their agency regarding job performance, which includes, but is not limited to:
 - a. Adherence to agency policies and procedures.
 - b. Caseload management.
 - c. Time management.
 - d. Productivity.
 - e. Prioritization of functions.
 - f. Case and file management.
 - g. Compliance with DBS reporting requirements (see [section II.](#)).
 - h. Adherence to the DBS program general policies and procedures (see [section III.](#)), merit analyses (see [section VI.D.](#)), and the annual review (see [section VI.B.](#)).
3. The DBS is expected to provide customer education, outreach, and volunteer training, as indicated by their agency supervisor.

B. Responsibilities to the customer

1. The DBS identifies their customer and determine eligibility for DBS services (see [section I.B.](#)).
2. When applicable, the DBS identifies the validity and scope of surrogate decision-making documents to determine who makes decisions with or for the customer.

3. The DBS identifies those benefits within the [DBS Program Services Scope](#) for which the customer may be eligible.
4. The DBS executes a CSA when opening a case on behalf of the customer (see [section III.E.](#)).
5. The DBS identifies the customer's goals and objectives, providing accurate information necessary for the customer to make an informed decision.
6. The DBS provides information to the customer regarding how to apply for public benefits. The DBS may assist the customer directly with an application. The level of assistance provided can vary based on the customer's knowledge, capability, and support system.
7. When applicable, the DBS obtains copies of relevant documents to provide informed benefit counseling. This includes, but is not limited to:
 - a. Notices of denied health insurance services, for example, Medicare Summary Notices, Medicare Advantage plan notices, or Medicare Part D denial notices.
 - b. Notices of eligibility denials; for example, notices from Social Security or the local income maintenance agency.
 - c. Notices of overpayment; for example, notices from Social Security or the local income maintenance agency.
 - d. Medical records and other documents as necessary for an appeal of an eligibility or covered service denial. The decision to gather medical or other records for an application, including an initial disability determination, is discretionary.
8. When applicable, the DBS calculates appeal deadlines. The DBS ensures the customer understands the deadlines and develops a plan with the customer to take appropriate and timely action.
9. When applicable, the DBS identifies advocacy strategies, tasks, and associated timelines to further the objectives of the customer, in consultation with the program attorney.

10. The DBS identifies and clearly articulates which tasks will be done by the customer and which will be done by the DBS. Where tasks fall with the customer, the DBS provides education to the customer to promote and encourage self-advocacy.
11. The DBS monitors open cases, acting as appropriate to move the case toward resolution.
12. The DBS communicates with the customer in a timely manner. The DBS keeps the customer informed of the status of their case with the agency.
13. The DBS adheres to programmatic confidentiality requirements when communicating with providers, government entities, eligibility agencies, employers, and others as necessary to provide advocacy in alignment with the customer's goals and objectives.

C. Responsibilities to the program attorney

1. The DBS seeks regular and periodic technical assistance from the program attorney as described in the Technical Assistance Agreement (see [section VI.A.](#)) It is expected that the DBS will bring a sufficient amount and variety of cases to the program attorney for the program attorney to provide feedback to the DBS and their supervisor during the annual review (see [section VI.B.](#)). See [section VI.A.1.e.](#) for expectations regarding the scheduling and frequency of regularly scheduled technical assistance.
2. The DBS participates in the annual case review by:
 - a. Generating required reports for the program attorney (see [section VI.B.1.d.](#)).
 - b. Answering the program attorney's questions regarding caseload composition.
 - c. Answering the program attorney's questions regarding the case files chosen for review.
 - d. Demonstrating that each file meets the criteria of the case file review (see [section VI.B.2.b.\(3\)](#)).

3. The DBS refrains from informing customers that technical assistance is being provided by a program attorney; this is to ensure that no attorney-client relationship is formed between the DBS's customer and the program attorney and to ensure that the program attorney conducts themselves within their ethical obligations.
4. The DBS refers cases, as appropriate, to the program attorneys for consideration of representation in administrative and judicial proceedings. The case remains the DBS's case until the program attorney formally accepts the case. The DBS makes the referral by:
 - a. Providing the program attorney with a written summary of the case. Note: program attorneys are available for ongoing assistance with evaluating cases and developing case theories and strategies.
 - b. Providing the program attorney with a copy of the customer's electronic file.
5. The DBS supports the work of the program attorney after the program attorney's acceptance of direct representation. This could involve, but is not limited to:
 - a. Gathering medical evidence.
 - b. Requesting medical source statements.
 - c. Obtaining employer statements.
 - d. Scheduling meetings.
 - e. Communicating with the customer.

D. Guidelines for direct representation of customers by the DBS

1. Programs within the [DBS Program Services Scope](#) generally allow a non-attorney to serve as a representative for the DBS customer. In some instances, a non-attorney may serve as a representative for the application process or administrative appeals, which can involve an administrative paper review or a more formal administrative hearing. The DBS may wish to assume representation in these instances. Representatives generally receive all correspondence received by the customer and agree to certain responsibilities and obligations as a representative. See [Guidelines for Agreeing to Become an Appointed Representative](#) (P-02009-22-12) for more information about acting as an appointed representative through SSA.

2. The DBS can consider providing direct representation when:
 - a. The customer is eligible for DBS services (see [section I.B.](#)).
 - b. The case acceptance criteria are met (see [section III.D.](#)).
 - c. The DBS understands the responsibilities that accompany the decision to represent. These responsibilities vary across programs and levels of appeal.
 - d. The customer's claim has not reached the formal administrative hearing, the customer's request for representation at a formal administrative hearing has been rejected by at least two private attorneys, or the customer meets an exception for representation through the DBS program (see [section III.K.](#)).
3. The DBS must work with the program attorney to determine whether the case has merit before providing direct representation services (see [section VI.D.](#)). The program attorney will provide technical assistance to the DBS only if the case has merit.
4. The DBS should consider the following factors before providing direct representation services.
 - a. When the case has not reached the formal administrative hearing (for example, at application or reconsideration), the DBS should consider:
 - i. The customer's ability to navigate the process without additional support from the DBS.
 - ii. The customer's ability to regularly access mail (for example, lack of a fixed mailing address due to unstable housing or experiencing homelessness).
 - b. When the case has reached the formal administrative hearing level of appeal, the DBS should consider:
 - i. The DBS's past involvement with the customer's claim. The DBS program does not accept Social Security cases for representation at hearing unless the DBS was involved at the initial application or reconsideration appeal. Exceptions to this policy are age 18 redetermination and continuing disability review cases.
 - ii. The DBS's knowledge of the benefit matter on appeal.
 - iii. The DBS's skill and/or expertise in the benefit matter on appeal.
 - iv. The DBS's capacity to dedicate time and resources to representation of the appeal.
5. As a direct representative, the DBS agrees to fulfill the responsibilities of representation, which include, but are not limited to:

- a. Executing all appropriate paperwork.
 - b. Monitoring and meeting deadlines and communications required for the case.
 - c. Developing case strategy or a theory of the case.
 - d. Gathering evidence to support the case.
 - e. Reading all case-related notices and responding appropriately.
 - f. Responding to all requests for information and submitting all relevant documents.
 - g. Consulting with the program attorney regarding representation decisions as indicated in the technical assistance agreement.
 - h. Complying with all responsibilities required of the specific program for which representation is being provided. This includes adhering to the rules of conduct for SSA appointed representatives.
6. If for any reason the program attorney believes that DBS representation is inappropriate, the program attorney will discuss the concerns with the DBS and ensure that the DBS' supervisor is aware of these concerns and approves of the DBS' decision to represent.

VI. Program Attorney Responsibilities

A. Provide technical assistance

1. Technical assistance is an important aspect of programmatic quality assurance. It is the process by which the DBS consults with the program attorney regarding their customers' benefit issues to ensure accurate, timely, and effective assistance and advocacy.
 - a. Technical assistance takes many different forms. It can involve, but is not limited to:
 - i. Providing substantive information to the DBS, such as the rules that govern a particular benefit program.
 - ii. Analyzing and interpreting laws, regulations, and policies related to benefit programs.
 - iii. Assisting the DBS with identifying relevant issues, developing a case advocacy strategy, and identifying case development opportunities.
 - iv. Confirming that the DBS has exhausted advocacy opportunities.

- v. Conducting a merit analysis (see [section VI.D.](#)).
- b. Technical assistance must be provided in a timely manner.
- c. Technical assistance must be provided on matters within the [DBS Program Services Scope](#), for cases meeting the case acceptance guidelines (see [section III.D.](#)), and in accordance with the Technical Assistance Agreement (see [section VI.A.2.](#)). Note: the Deaf DBS providing services through the Office for the Deaf and Hard of Hearing (ODHH) may, by the ODHH supervisor's request, provide DBS services to adults 60 years and older, if the customer's benefit issue is within the [DBS Program Services Scope](#).
- d. Technical assistance must be provided:
 - i. On a regularly scheduled basis, at a mutually agreed upon time. Regularly scheduled technical assistance may be provided by video conference or phone call. The recommended frequency is:
 - 1.) Once per week for a newly hired DBS
 - 2.) No less than once every three weeks for an experienced DBS
 - 3.) May change based on the DBS's needs and is established through a discussion between the DBS's supervisor, the DBS, and the program attorney.
 - ii. On an as-needed basis between regularly scheduled meetings. As-needed technical assistance may be provided by video conference, phone, email, or fax.
- e. When providing technical assistance, the program attorney:
 - i. Assesses case-specific issues and facts, as impacted by the laws, regulations, and policies that govern benefit programs.
 - ii. Develops practical approaches for the DBS to use in presenting issues and facts to the customer and other entities.
 - iii. Provides guidance regarding benefits applications, case development, and advocacy letters and supporting documents to administrative entities in DBS cases.
 - iv. Answers questions about benefit program procedures and processes.
 - v. Provides ongoing consultation regarding DBS case acceptance and DBS representation.
- f. Concerns about the technical assistance provided by the program attorney may be raised to the program attorney service provider (for ADRCs and ODHH), Tribal DBS service provider (for Tribal DBSs), or the DBS program manager.

2. The program attorney works with the DBS to execute a Technical Assistance Agreement. This agreement:
 - a. Establishes expectations regarding the number and types of cases for which the DBS must seek technical assistance from the program attorney. This is to ensure that the DBS is seeking technical assistance in appropriate circumstances, considering their skill and experience.
 - b. Provides the DBS's supervisor with a mechanism to evaluate the extent to which the DBS is utilizing technical assistance appropriately.
 - c. Is executed during initial training and is updated at each annual review thereafter.
 - i. During the annual review, the program attorney and the DBS discuss the DBS's current level of knowledge and experience with various types of benefits cases.
 - ii. If the program attorney and the DBS mutually agree that the DBS no longer requires technical assistance with a specific case type, the decision is documented by the program attorney.
 - d. Does not preclude nor deter the DBS from requesting technical assistance on any matter within the [DBS Program Services Scope](#) when assistance is needed. Regardless of experience level, the DBS may always contact their program attorney for technical assistance with any case and is strongly encouraged to consult with the program attorney in any complex situation.
3. If concerns arise regarding the substantive performance of the DBS, the program attorney will inform the DBS's supervisor. Significant and ongoing issues will be brought to the attention of the DBS program manager for assistance with resolution.

B. Complete an annual review

1. The annual review provides valuable information to the DBS supervisor to help measure the extent to which the DBS is following the [Disability Benefit Counseling](#) (P-03062-05a) section of the ADRC Operations Manual and receiving appropriate support from the program attorney, which are key factors in evaluating the quality of services provided by the DBS.

- a. The primary objectives of the annual case review are:
 - i. Establish a consistent process and format for reviewing the DBS's caseload management, case handling, documentation practices, and technical assistance needs.
 - ii. Provide feedback to the DBS and DBS supervisor in a useful format.
 - iii. Provide a quality review of the DBS's casework.
 - iv. Establish and maintain regular communication between the program attorney and DBS supervisor.
 - v. Ensure the DBS is receiving adequate support, following best practices, and exercising flexibility to adjust to the needs of individual customers and/or service areas as appropriate.
 - b. The program attorney reaches out to the DBS and DBS supervisor to schedule the annual review. Generally, site reviews are conducted in-person. Visits may be conducted virtually if agreed upon by the program attorney, DBS, DBS's supervisor, and managing attorney.
 - c. For the Tribal DBSs, the Tribal DBS service provider will determine the location of the meeting. The meeting should include the DBS, the DBS supervisor, and the program attorney.
 - d. At least one week prior to the review, the DBS provides the required reports from the reporting and case management system to the program attorney.
2. The annual review includes:
- a. Conducting a caseload assessment.
 - i. The caseload assessment evaluates the size, nature, composition, and complexity of the DBS's caseload to determine whether it is reasonable. A variety of factors contribute to whether the caseload is deemed reasonable. Factors considered include:
 - 1.) Overall caseload size.
 - 2.) Caseload composition: the extent to which the caseload involves complex cases (for example, social security disability reconsiderations and other appeals, work-related overpayments, self-employment).
 - 3.) Case type: the extent to which the DBS works on different case types (for example, Social Security disability cases, Medicaid cases, and covered services cases).
 - 4.) Case stage: the extent to which the DBS spends time on benefit appeals.
 - 5.) The nature and extent of advocacy in cases: the extent to which the DBS spends time utilizing advocacy tools.

- 6.) The total number of cases remaining open, opened, and closed within a particular year. This includes reviewing whether cases are being closed in a timely manner.
- 7.) The DBS's experience level.
- ii. In preparation for the review, the program attorney:
 - 1.) Reviews reports provided by the DBS (see [section VI.B.1.d.](#)) to assess the number and type of currently open cases, as well as the number of cases that have been opened and closed over the past 12 months.
 - 2.) Reviews information obtained through technical assistance contacts.
- iii. During the review, the program attorney discusses the report data and caseload assessment with the DBS.
- b. Conducting the case file review.**
 - i. The program attorney and the DBS each choose cases representative of the DBS's overall caseload in advance of the meeting.
 - ii. The program attorney and the DBS each select six cases for review; this number may vary if the review is being conducted virtually or based on the DBS's needs.
 - iii. The program attorney conducts a detailed review of the identified case files. The program attorney checks for the following:
 - 1.) The file contains a signed CSA that reflects the scope of services provided (see [section III.E.](#)).
 - 2.) The DBS followed case acceptance, closure, and termination policies (see sections [III.D.](#) and [III.F.](#)).
 - 3.) The file contains copies of relevant documents.
 - 4.) The file contains documentation of all the DBS's communications with the customer, both written and verbal.
 - 5.) The file contains documentation of the DBS's actions on the case and status of the case.
 - 6.) The assistance provided and actions taken by the DBS were timely and fit within the scope of services as set forth in the CSA.
 - 7.) The DBS consulted with the program attorney on case types identified in the Technical Assistance Agreement and/or complex cases not specified in the agreement.
 - iv. Program attorneys only monitor general case file quality and compliance with program policies and procedures contained within the [Disability Benefit Specialist Program](#) (P-03062-05a) section of the ADRC Operations Manual. Program attorneys do not monitor for compliance with the agency's case file standards.

Monitoring and enforcing the DBS's conformity with agency-specific policies on file maintenance, recordkeeping, and file retention is the responsibility of the agency (see [section IV.C.](#)).

- v. If the annual case review must be done remotely, the DBS will be asked to electronically share case documents with the program attorney. If that cannot be done, the DBS supervisor may be required to participate in the review to verify that specific documents (for example, the signed CSA and Social Security documents) are present in the file.
- c. Providing the quality review.**
- i. The program attorney provides the following feedback with the local supervisor and the DBS:
 - 1.) Whether the DBS sought technical assistance at the frequency described in the technical assistance agreement and regarding the matters described in the agreement.
 - 2.) Whether the DBS sought technical assistance on a sufficient number and variety of cases to allow the program attorney to consider the following:
 - a.) Demonstration of effective case development and advocacy skills such as:
 - i.) Articulation of a theory of the case.
 - ii.) Identification of opportunities to develop and strengthen the case.
 - iii.) Proactive case development.
 - b.) Evidence in the DBS's casework that they applied program knowledge to further the customer's goals
 - c.) Substantive knowledge given the DBS's experience in the program
 - d.) Responsiveness to and follow-through on the program attorney's recommendations
 - e.) Utilization of a tracking system to ensure timelines are met
 - ii. The program attorney provides a written summary of their quality review to the DBS and the DBS supervisor during the annual review. If there is insufficient data for the assessment, the program attorney notes that in the written summary.
 - d.** After the annual review is completed, the program attorney provides a written summary including information on the caseload assessment, the case file review, a copy of the technical assistance agreement, and the DBS's training attendance records since the last time a summary was provided.

- e. The annual review summary, including the quality review, can be used as a tool to assist the DBS supervisor in evaluating the DBS's performance and developing caseload management strategies. The agency retains primary responsibility for evaluating the DBS's performance and addressing any problems identified by the program attorney related to the DBS's caseload management, case handling, or case documentation.
- f. A schedule for additional assessment and review by a program attorney within the same 12-month period may be approved on a case-by-case basis. Additional reviews may be limited by program attorney availability and require approval by the DBS program manager. Circumstances that may warrant an additional review include:
 - i. Addressing problems identified during the annual review process.
 - ii. Responding to concerns noted by the program attorney while providing technical assistance.
 - iii. Responding to one or more customer complaints about the DBS's services.
 - iv. Responding to a change in DBS staffing or the volume of requests for DBS services.
- g. Questions about the annual review can be directed to the DBS program manager.

C. Provide direct representation

- 1. A program attorney may accept a DBS customer's case for direct representation according to the program attorney service provider's policies and procedures. The Tribal DBS service provider works with their subcontracted provider to determine policies and procedures related to direct representation of Tribal DBS cases. The following conditions apply to any direct representation:
 - a. The customer has exhausted all other remedies, and the case is deemed to have merit.
 - b. There are no other viable legal representation resources available, including, without limitation, pro bono attorney services, legal service corporation-funded services, and non-pro bono attorney services, unless an exception exists.
 - c. For cases involving retroactive Social Security benefits, the customer sought other legal representation and obtained two refusals (see [section III.K.](#)), unless an exception exists.
 - d. The case will have a substantial impact on the potential customer's financial circumstances or quality of life.
 - e. The program attorney will not undertake class action litigation on behalf of DBS customers.

- f. The program attorney will not collect a fee from a customer; someone paying on behalf of the customer; or a local, state, or federal agency or governing body; except for a fee award under the Federal Equal Access to Justice Act.
2. Direct representation is provided in accordance with the Wisconsin Supreme Court Rules of Professional Conduct for Attorneys.
3. Confidentiality rules for program attorneys providing direct representation to the DBS's customer are governed by the Wisconsin Supreme Court Rules of Professional Conduct for Attorneys.
4. Representation at age 18 redetermination and continuing disability review hearings with the Disability Determination Bureau (DDB) officer will be accepted only when the representation is provided as training to prepare the DBS to provide this service in the future. The program attorney will accept one such case per DBS. The DBS is expected to actively participate in the preparation for the hearing and attend the hearing.
5. After receiving a referral for representation from a DBS, the program attorney evaluates the case. The program attorney may consult with team members before deciding whether to accept a case. The decision to provide direct representation rests solely with the program attorney.
6. If the program attorney does not accept representation, the DBS may ask for a review of the decision by the managing program attorney.
7. Representation prior to administrative hearing may be considered when the benefit issue is complex, beyond the expertise or ability of the DBS, and requires legal services.
8. Representation at the Appeals Council may be considered only when the DBS or program attorney provided representation at the administrative hearing and the case falls within the Appeal Council's standard of review. If the DBS believes there are extenuating circumstances that warrant an exception, the DBS must contact their program attorney immediately after receiving the customer's request for representation.

9. Representation of a customer's case at proceedings in state or federal court must only be undertaken if the DBS or the program attorney represented the customer in the administrative hearing and the program attorney service provider has the resources to dedicate to the case.

D. Analyzing case merit

1. Merit decisions ensure the efficient and effective use of agency and program attorney resources.
2. The program attorney cannot provide technical assistance in DBS cases with insufficient merit. Attorneys are prohibited from assuming direct representation or continuing direct representation in cases with no merit according to the Wisconsin Supreme Court Ethics Rules that govern their conduct.
3. A case has merit when available information, viewed according to the appropriate standard, demonstrates a basis for the customer's position. In disability determinations, this means identifying a reasonable argument based on the SSA five-step sequential evaluation.
4. Program attorneys conduct a merit analysis for several purposes:
 - a. To determine whether the program attorney will assume direct representation (the program attorney has sole discretion in this matter).
 - b. To determine whether the program attorney will provide technical assistance to the DBS on a case (the program attorney has sole discretion in this matter).
 - c. To provide input to the DBS and the DBS supervisor regarding case acceptance or the DBS's acceptance of direct representation.
 - d. To provide input when the DBS wishes to terminate a case due to lack of merit.
5. Where a merit analysis cannot be conducted due to a lack of information, the program attorney provides technical assistance to the DBS regarding what information is needed to conduct the merit analysis.

6. If the DBS disagrees with program attorney, the program attorney attempts to resolve the issue with the DBS. If the DBS continues to disagree with the program attorney, the DBS can ask the managing program attorney to review the decision. If no agreement is reached, the DBS must inform their supervisor of the program attorney's opinion regarding merit. If the DBS continues to provide services to the customer, then the program attorney will not provide technical assistance for that case.
7. In some instances, new information may cause the DBS to believe that a merit exists on a case that was previously determined not to have merit. The DBS may ask for a new merit analysis based on this new information.

E. Training

1. The program attorney service provider:
 - a. Provides initial and ongoing training to DBSs (see [section III.B.](#)).
 - b. Collaborates with DHS and other partner organizations to coordinate the provision of the initial basic training.
 - c. Provides ongoing trainings on substantive and skill-based topics within the [DBS Program Services Scope](#).
 - d. Provides group training (either virtually or in-person). In-person trainings will be provided at varied locations throughout the state.
 - e. Provides an annual training calendar no later than the first day of the new calendar year.
 - f. Communicates changes to the DBS Training Calendar on a timely basis.
 - g. Provides ongoing training in alternative media, as requested.
 - h. Makes web-based trainings available for later viewing.
 - i. Makes materials from in-person training available for DBSs to review later.
 - j. Ensures the accuracy of substantive information on the [DBS SharePoint site](#).

F. Provision of legal services

1. The provision of technical assistance or training to the DBS by the program attorney provider is not a legal service. There is no attorney-client relationship between the program attorney and the DBS's customer, nor is there an

attorney-client relationship between the program attorney service provider and the DBS, ADRC, the Tribal DBS service provider, or ODHH.

2. Direct representation of a customer by the program attorney is a legal service, and all related work, including the supporting work of the DBS, falls under the Wisconsin Supreme Court Rules of Professional Conduct for Attorneys.

VII. DBS Program Manager Responsibilities

A. Operation of the DBS program

1. The DBS program manager is responsible for the overall operation of the DBS program. Duties include:
 - a. Responding to concerns regarding the operation of the program.
 - b. Maintaining, modifying, revising, and overseeing the implementation of the Disability Benefits Counseling section of the ADRC Operations Manual.
 - c. Obtaining, compiling, and publishing program-wide data.
 - d. Maintaining the reporting and case management system and resolving issues with the system.
 - e. Maintaining the [DBS SharePoint site](#).
 - f. Working with the program attorney service provider to ensure that the annual DBS Training Calendar and any subsequent changes to the calendar are communicated to agencies, including posting the calendar to the [DBS SharePoint](#) and [ADRC SharePoint](#) sites.
 - g. Overseeing the contract with the program attorney service provider for operation and implementation of the program attorney contract and budget.
 - h. Overseeing the contract with the Tribal DBS service provider for operation and implementation of the Tribal DBS contract and budget.
 - i. Providing input and participating in DHS's activities relevant to ADRCs, especially regarding the operation of the DBS program.
 - j. Participating in ongoing trainings and program updates with the program attorneys.

- k. Participating in the development of training criteria for the contract between DHS and the Wisconsin Elder and Disability Benefit Network.
- l. Consulting with the program attorney and the DBS supervisor regarding substantive performance of a DBS, especially regarding the implementation of DBS policies and procedures, the contract between DHS and the ADRCs, and the contract between DHS and the Tribal DBS service provider.
- m. Maintaining program orientation materials for newly hired DBSs.

B. Confidentiality

1. The DBS program manager may receive verbal or written information about a DBS's or program attorney's customer through the course of collecting DBS customer data for reporting purposes. The DBS program manager must maintain the confidentiality of customers of the program to the same extent as the confidentiality maintained by the DBS and the program attorney.

VIII. Appendix

A. Example of DBS advocacy services

1. The actions described below provide an example of strategies a DBS may use to develop a customer's reconsideration appeal after a denied disability determination for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits. The DBS:
 - a. Obtains the customer's SSA medical file (commonly referred to as the SSA CD).
 - b. Reviews the file to ascertain why the claim was denied.
 - c. Discusses the case record with the program attorney.
 - d. Develops a theory of the case.
 - e. Strategizes a case development plan. This could include but is not limited to:
 - i. Selecting, adapting, and obtaining a Medical Source Statement(s).

- ii. Contacting the disability examiner by phone or advocacy letter to explain why the evidence shows the customer is disabled under the five-step evaluation process.
- iii. Developing and obtaining evidence from non-medical sources that demonstrate the customer is disabled. Such evidence includes:
 - 1.) Statements about functional limitations from family, friends, and other sources.
 - 2.) Statements from former or current employers as to the customer's functional limitations at work.
 - 3.) Division of Vocational Rehabilitation (DVR) records.
 - 4.) Statements from the customer's teachers about functionality in school.

B. Obtaining systems access for newly hired DBSs

1. The systems the newly hired DBS will need to perform their work are listed below. Refer to the [ADRC/Aging/Tribal User System Access Request Form Instructions \(F-02000A\)](#) for full instructions regarding the process and completion of the forms.
 - a. [MyWisconsin ID](#)
 - b. [DOA/Wisconsin Logon Management System \(WILMS\)](#)
 - c. [Peer Place reporting and case management system](#)
 - d. [DBS SharePoint](#)
 - e. [ADRC SharePoint](#)
 - f. [State Health Insurance Assistance Program \(SHIP\)](#)
 - g. [ERI Learning Management System \(LMS\)](#)
 - h. Recommended systems (but not required):
 - i. [Wisconsin Access Management System \(WAMS\)](#)
 - ii. [CARES Worker Web \(CWW\)](#)
 - iii. [Electronic Case File \(ECF\)](#)
 - iv. [Forward Health interChange \(FHiC\)](#)

2. Update the [ADRC Directory on SharePoint](#) using these [instructions](#) with the newly hired DBS's contact information.

C. Terminating systems access for departing DBSs

1. Submit [ADRC/AGING/TRIBAL User System Access Request](#) (F-02000) to delete user access to systems managed by BADR, the learning management system, and the ForwardHealth interChange System.
2. To deactivate or remove CWW or ECF access, the agency's CARES Security Officer emails the following information to dhscaresaims@dhs.wisconsin.gov:
 - a. User's full name
 - b. Agency
 - c. Date that access should be discontinued

D. Additional resources and tools

1. [Wisconsin Admin. Code § DHS 10.23\(2\)\(d\)](#)
2. [Wisconsin Stat. § 46.283](#)
3. [Benefit Specialist Programs](#) (P-03062-05)
4. [DBS Program Resources](#) (Quick Links)