

RULE

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

**Home and Community-Based Services Waivers
Community Choices Waiver
(LAC 50:XXI.Chapters 81, 83, 85, 86, 87, 89, 93 and 95)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XXI.Chapters 81, 83, 85, 86, 87, 89, 93, and 95 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waivers

Subpart 7. Community Choices Waiver

Chapter 81. General Provisions

§8101. Introduction

A. The target population for the Community Choices Waiver (CCW) includes individuals who:

A.1. - D. ...

1. The appropriate form authorized by the Office of Aging and Adult Services (OAAS) shall be used to designate a responsible representative.

a. ...

b. The written designation is valid until it is revoked by the individual granting the designation. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. - 2.b. ...

3. No individual, unless granted an exception by OAAS, may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based service programs. This includes but is not limited to:

a. the Program of All-Inclusive Care for the Elderly (PACE);

b. long term-personal care services (LT-PCS);

c. ...

d. the Adult Day Health Care (ADHC) Waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3517 (December 2011), amended LR 40:791 (April 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of

Aging and Adult Services, LR 44:1896 (October 2018),
repromulgated LR 44:2005 (November 2018), amended LR 50:

§8103. Request for Services Registry

A. ...

B. Individuals who desire their name to be placed on the
community choices waiver registry shall be screened to determine
whether they meet:

1. nursing facility level of care; and

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Bureau of Health Services Financing and the
Office of Aging and Adult Services, LR 37:3517 (December 2011),
amended by the Department of Health, Bureau of Health Services
Financing and the Office of Aging and Adult Services, LR 44:1896
(October 2018), LR 50:

§8105. Programmatic Allocation of Waiver Opportunities

A. ...

B. Community Choices Waiver opportunities shall be
offered to individuals on the registry according to priority
groups. The following groups shall have priority for Community
Choices Waiver opportunities, in the order listed:

1. individuals with substantiated cases of abuse or neglect referred by protective services who, without Community Choices Waiver services, would require institutional placement to prevent further abuse or neglect;

2. - 4. ...

5. individuals who are not presently receiving home and community-based services (HCBS) under another Medicaid program, including, but not limited to:

a. ...

b. long term-personal care services (LT-PCS);

and/or

c. ...

6. all other eligible individuals on the CCW registry, by date of first request for services.

C. If an applicant is determined to be ineligible for any reason, the next individual on the CCW registry is notified as stated above and the process shall continue until an individual is determined eligible. A Community Choices Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

D. Notwithstanding the priority group provisions, 75 Community Choices Waiver opportunities are reserved for qualifying individuals who have been diagnosed with amyotrophic lateral sclerosis (ALS). Qualifying individuals who have been

diagnosed with ALS shall be offered an opportunity on a first-come, first-serve basis.

E. Notwithstanding the priority group provisions, up to 300 Community Choices Waiver opportunities may be granted to qualified individuals who require emergency expedited waiver services. These individuals shall be offered an opportunity on a first-come, first-serve basis.

1. To be considered for an emergency expedited waiver opportunity, the individual must, at the time of the request for the expedited opportunity, be approved for the maximum amount of services allowable under the LT-PCS and require institutional placement, unless offered an expedited waiver opportunity.

2. The following criteria shall be considered in determining whether to grant an emergency expedited waiver opportunity:

a. - e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3517 (December 2011), amended LR 39:319 (February 2013), LR 39:1778 (July 2013), amended by the Department of Health, Bureau of Health Services

Financing and the Office of Aging and Adult Services, LR 44:1896
(October 2018), LR 45:756 (June 2019), LR 50:

Chapter 83. Covered Services

§8302. Long Term-Personal Care Services

A. Community Choices Waiver participants cannot also receive long term-personal care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:320 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1897 (October 2018), LR 50:

§8305. Environmental Accessibility Adaptations

A. - A.4. ...

a. If final inspection, conducted either by OAAS staff or the assessor, reveals that the adaptation(s) is substandard, the costs of correcting the work will be the responsibility of the party in error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the

Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 39:320 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1897 (October 2018), LR 50:

§8307. Personal Assistance Services

A. Personal assistance services (PAS) provide assistance and/or supervision necessary for the participant with functional impairments to remain safely in the community. PAS include the following services and supports based on the approved POC:

1. - 3. ...

4. supervision or assistance with health related tasks (any health related procedures governed under the Nurse Practice Act) where the direct service worker has received proper training pursuant to R.S. 37:1031-1034;

A.5. - H. ...

I. The following individuals are allowed to provide PAS to a participant:

1. the participant's spouse;

a. when it is determined that the spouse may be the worker due to the participant needing extraordinary care.

2. - 4. ...

5. the person to whom the participant has given representative and mandate authority (also known as power of attorney).

6. Repealed.

J. The participant's responsible representative is prohibited from being a PAS worker for a participant.

1. Repealed.

K. Participants are not permitted to receive PAS while living in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long term care services and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home of their direct support worker unless the direct support worker is related to, and it is the choice of, the participant.

1. The provisions of §8307.K may be waived with prior written approval by OAAS or its designee.

L. It is permissible for the PAS allotment to be used flexibly within a prior authorized week in accordance with the participant's preferences and personal schedule, and with proper documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 39:320 (February 2013), LR 39:1778 (July 2013), LR

40:791 (April 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1898 (October 2018), LR 47:885 (July 2021), LR 49:486 (March 2023), LR 50:

§8309. Transition Services

A. - C. ...

D. These services do not include monthly rental payments, mortgage expenses, food, recurring monthly utility charges, and household appliances and/or items intended for purely diversional/recreational purposes. These services may not be used to pay for furnishing or to set-up living arrangements that are owned or leased by a waiver provider.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3520 (December 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1898 (October 2018), LR 50:

§8313. Caregiver Temporary Support Services

A. - E. ...

F. When caregiver temporary support services are provided by an ADHC center, services may be provided no more than 10 hours per day.

G. Caregiver temporary support services may be utilized no more than 30 calendar days or 29 overnight stays per plan of care year for no more than 14 consecutive calendar days or 13 consecutive overnight stays. The service limit may be increased based on documented need and prior approval by OAAS.

H. Caregiver temporary support services may not be delivered at the same time as adult day health care or personal assistance services.

I. Caregiver temporary support services may be provided for the relief of the principal caregiver for participants who receive monitored in-home caregiving (MIHC) services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3521 (December 2011), amended LR 39:321 (February 2013), LR 40:792 (April 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1898 (October 2018), LR 50:

§8323. Skilled Maintenance Therapy

A. - F.2.h. ...

3. speech language therapy (SLT) services which preserve abilities for independent function in communication, facilitate oral motor and swallowing function, facilitate use of assistive technology, and/or prevent progressive disabilities including:

a. - h. ...

i. consulting or collaborating with other service providers or family members, as specified in the POC.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3522 (December 2011), amended LR 39:321 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1899 (October 2018), LR 47:885 (July 2021), LR 50:

§8329. Monitored In-Home Caregiving Services

A. ...

B. The principal caregiver is responsible for supporting the participant to maximize the highest level of independence

possible by providing necessary care and supports that may include:

1. - 4. ...

5. supervision or assistance while escorting/ accompanying the participant outside of the home to perform services indicated in the plan of care and to provide the same level of supervision or assistance as would be rendered in the home; and

6. ...

C. The following individuals are allowed to be the MIHC principal caregiver:

1. the participant's spouse;

2. the participant's curator;

3. the participant's tutor;

4. the participant's legal guardian; or

5. the person to whom the participant has given representative and mandate authority (also known as power of attorney).

D. The participant's responsible representative is prohibited from being a MIHC principal caregiver for a participant.

1. - 3. Repealed.

E. Participants electing monitored in-home caregiving services shall not receive the following Community Choices

Waiver services during the period of time that the participant is receiving monitored in-home caregiving services:

1. personal assistance services; or
2. home delivered meal services.

F. Monitored in-home caregiving providers must be licensed HCBS providers with a monitored in-home caregiving module who employ professional staff, including a registered nurse and a care manager, to support principal caregivers to perform the direct care activities performed in the home. The provider must assess and approve the home in which services will be provided, and shall enter into contractual agreements with caregivers who the agency has approved and trained. The provider will pay per diem stipends to caregivers.

G. The MIHC provider must use secure, web-based information collection from principal caregivers for the purposes of monitoring participant health and caregiver performance. All protected health information (PHI) must be transferred, stored, and otherwise utilized in compliance with applicable federal and state privacy laws. Providers must sign, maintain on file, and comply with the LDH HIPAA business associate addendum.

H. The department shall reimburse for monitored in-home caregiving services based upon a tiered model which is designed to address the participant's acuity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:792 (April 2014), amended LR 41:2642 (December 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1900 (October 2018), LR 50

§8335. Financial Management Services

A. Financial management services (FMS) assist the participant to live independently in the community while controlling their services by choosing the staff who work with them.

B. FMS are provided to participants who have chosen and are capable of self-directing their Community Choices Waiver services.

C. FMS are provided by a Medicaid enrolled fiscal employer agent (F/EA) and the F/EA's responsibilities and standards for participation are identified in LAC 50:XXI.Chapter 11, Subchapters A-C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Chapter 85. Self-Direction Initiative

§8501. Self-Direction Service Option

A. - C.1. ...

2. Involuntary Termination. The department may terminate the self-direction service option for a participant and require him/her to receive provider-managed services under the following circumstances:

a. - c. ...

d. the participant or responsible representative:

i. - iii. ...

iv. fails to cooperate with the department, fiscal agent or support coordinator;

C.2.d.v. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3523 (December 2011), amended LR 39:321 (February 2013), LR 39:1779 (July 2013), amended by the Department of Health, Bureau of Health Services

Financing and the Office of Aging and Adult Services, LR 44:1900 (October 2018), LR: 49:1726 (October 2023), LR 50:

Chapter 86. Organized Health Care Delivery System

§8601. General Provisions

A. - C. ...

D. Prior to enrollment, an OHCDs must show the ability to provide all of the following Community Choices Waiver services:

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:792 (April 2014), amended LR 41:2643 (December 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1901 (October 2018), LR 50:

Chapter 87. Plan of Care

§8701. Plan of Care

A. The applicant and support coordinator have the flexibility to construct a plan of care that serves the participant's health and welfare needs. The service package provided under the POC shall include services covered under the Community Choices Waiver in addition to services covered under the Medicaid state plan (not to exceed the established service

limits for either waiver or state plan services) as well as other services, regardless of the funding source for these services. All services approved pursuant to the POC shall be medically necessary and provided in a cost-effective manner. The POC shall be developed using a person-centered process coordinated by the support coordinator.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:321 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1901 (October 2018), LR 50:

Chapter 89. Admission and Discharge Criteria

§8901. Admission Criteria

A. Admission to the Community Choices Waiver program shall be determined in accordance with the following criteria:

1. - 3. ...

4. justification, as documented in the approved POC, that the Community Choices Waiver services are appropriate, cost effective and represent the least restrictive environment for the individual; and

5. reasonable assurance that the health and welfare of the participant can be maintained in the community with the provision of Community Choices Waiver services.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:322 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1901 (October 2018), LR 50:

§8903. Admission Denial or Discharge Criteria

A. Admission shall be denied or the participant shall be discharged from the Community Choices Waiver program if any of the following conditions are determined.

1. - 4. ...

5. Continuity of services is interrupted as a result of the participant not receiving and/or refusing Community Choices Waiver services (exclusive of support coordination services) for a period of 30 consecutive days.

EXCEPTION: An exception may be granted by OAAS to delay discharge if interruption is due to an acute care hospital, rehabilitation hospital, or nursing facility admission.

6. The health and welfare of the individual cannot be reasonably assured through the provision of Community Choices Waiver services.

7. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:322 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1901 (October 2018), LR 50:

Chapter 93. Provider Responsibilities

§9301. General Provisions

A. ...

B. The provider shall not request payment unless the participant for whom payment is requested is receiving services in accordance with the Community Choices Waiver program provisions and the services have been prior authorized and actually provided.

C. Any provider of services under the Community Choices Waiver shall not refuse to serve any individual who chooses their agency unless there is documentation to support an inability to meet the individual's health and welfare needs, or

all previous efforts to provide service and supports have failed and there is no option but to refuse services.

C.1. - D. ...

E. Any provider of services under the Community Choices Waiver shall not interfere with the eligibility, assessment, care plan development, or care plan monitoring processes with use of methods including, but not limited to:

1. - 3. ...

F. Any provider of services under the Community Choices Waiver shall have the capacity and resources to provide all aspects of any service they are enrolled to provide in the specified service area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3524 (December 2011), amended LR 39:322 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1901 (October 2018), LR 50:

§9303. Reporting Requirements

A. ...

B. Support coordinators and direct service providers are responsible for documenting the occurrence of incidents or

accidents that affect the health and welfare of the participant and for completing an incident report. The incident report shall be submitted to the department or its designee with the specified requirements within specified timelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:322 (February 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1902 (October 2018), LR 50:

Chapter 95. Reimbursement

§9501. Reimbursement and Rate Requirements

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for the following services, and reimbursement shall not be made for less than one quarter hour (15 minutes) of service:

1. personal assistance services (except for the "a.m. and p.m." service delivery model);

- a. ...

b. there is a separate reimbursement rate for shared personal assistance services;

2. in-home caregiver temporary support services when provided by a personal care services or home health agency;

A.3. - C.2.a. ...

D. The following services shall be reimbursed at an established monthly rate:

1. ...

2. transition intensive support coordination;

3. monthly monitoring/maintenance for certain assistive devices/technology and medical supplies procedures;
and

4. financial management services.

E. - E.2. ...

F. Reimbursement shall not be made for Community Choices Waiver services provided prior to the department's, or its designee's, approval of the POC and release of prior authorization for the services.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

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Secretary