
CHAPTER 9: ADULT DAY HEALTH CARE WAIVER

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RECIPIENT RIGHTS AND RESPONSIBILITIES

Recipients have specific rights and responsibilities that accompany eligibility and participation in the Medicaid and Medicaid waiver programs. Support coordinators and service providers must assist recipients to exercise their rights and responsibilities. Every effort must be made to assure that applicants or recipients understand their available choices and the consequences of those choices. Support coordinators and service providers are bound by their provider agreement with Medicaid to adhere to the following policies on recipient rights.

Each individual who requests Adult Day Health Care (ADHC) Waiver services has the option to designate a responsible representative to assist or act on his/her behalf in the process of accessing and/or maintaining ADHC Waiver services. The recipient has the right to change his/her responsible representative at any time. The responsible representative may not concurrently serve as a responsible representative for more than two (2) recipients in a Medicaid Home and Community-Based Services (HCBS) program that is operated by the Office of Aging and Adult Services (unless an exception is granted by OAAS) which includes, but is not limited to:

- Program of All-Inclusive Care for the Elderly (PACE);
- Long Term - Personal Care Services (LT-PCS);
- Community Choices Waiver (CCW); and
- Adult Day Health Care (ADHC) Waiver.

Freedom of Choice of Program

Individuals who have been offered waiver services have the freedom to select between institutional care services and Home and Community-Based Services (HCBS). They are informed of their alternatives under the waiver at the time they are going through the Medicaid application and determination process. These individuals have the responsibility to participate in this process which includes providing medical and other pertinent information or assisting in obtaining this information to be used in the person-centered planning and service approval process. When applicants are admitted to the waiver, they have access to an array of Medicaid services.

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Freedom of Choice of Agencies/Providers

Recipients have the freedom of choice to select their support coordination agency/providers. Recipients may make agency/provider changes based on the following schedule:

Type of Service	Without Good Cause	With Good Cause
Support Coordination Transition Intensive Support Coordination	Recipients must have been with the support coordination agency at least six (6) months	Any time
Adult Day Health Care (ADHC)	Once every six (6) months with the change effective beginning the first day of the following calendar quarter	Any time
Transition Service	Not Applicable	Not Applicable

Good cause is defined as:

- A recipient moving to another region in the state where the current provider/agency does not provide services;
- The recipient and the provider/agency have unresolved difficulties and mutually agree to a transfer;
- The recipient's health or welfare has been compromised; or
- The provider/agency has not rendered services in a manner satisfactory to the recipient.

Support coordinators will provide recipients their choice of ADHC providers and help arrange and coordinate the services on the Plan of Care (POC).

The Office of Aging and Adult Services (OAAS), or its designee will provide recipients with their choice of support coordination agencies.

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Adequacy of Care

All recipients in HCBS waiver programs inclusive of ADHC services have the right to choose and receive the services necessary to support them to live in a community setting. Recipients have the right to choose how, where, and with whom they live. Services are arranged and coordinated through support coordination and approved by the OAAS regional office or its designee. Administrative limits are placed on some services according to the waiver that is authorized by the Center for Medicare and Medicaid Services (CMS).

Recipients have the responsibility to request only those services they need and not request excess services, or services for the convenience of employees, providers or support coordinators. Units of service are not “saved up”. The services are certified as medically necessary for the recipient to be able to stay in the community and are revised on the POC as each recipient’s needs change. The support coordinator must be informed anytime there is a change in the recipient’s health, medication, physical conditions, and/or living situation.

Participation in Care

Each recipient shall participate in the assessment, person-centered planning meetings and any other meeting involving decisions about services and supports to be provided as part of the waiver process. Each recipient may choose whether or not providers attend assessment and planning meetings. Person-centered planning will be utilized in developing all services and supports to meet the recipient’s needs. By taking an active part in planning his/her services, the recipient is better able to utilize the available supports and services. The recipient is expected to participate in the planning process to the best of the recipient’s ability so that services can be delivered according the approved person-centered POC. The recipient shall report any service need change to his/her support coordinator and service provider(s).

Changes in the amount of services must be requested by the recipient and submitted to the support coordinator as soon as the need is identified. The support coordinator will prepare and submit the POC revision in accordance with the required timelines. Providers may not initiate requests for change/adjustment of service(s), or modifications to the POC, without the participation and consent of the recipient. The OAAS regional office or its designee must approve these changes.

Voluntary Participation

Recipients have the right to refuse services, to be informed of the alternative services available to them, and to know the consequences of their decisions. Therefore, a recipient will not be required to receive services or participate in activities they do not want, even if they are eligible for those services. The intent of the ADHC Waiver is to provide community-based services to individuals who would otherwise require care in a nursing facility.

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Providers must reasonably assure that the recipient's health and welfare needs are met. As part of the planning process, methods to comply with these assurances may be negotiated to suit the recipient's needs.

Quality of Care

Each HCBS waiver recipient has the right to be treated with dignity and respect and receive services from provider employees who have been trained and are qualified to provide them. In addition, providers are required to maintain privacy and confidentiality in all interactions related to the recipients' services.

Recipients have the right to be free from abuse (mental, physical, emotional, coercion, restraints, seclusion, and any other forms of restrictive interventions).

In cases where services are not delivered according to the approved POC, or there are allegations of abuse, neglect, exploitation, or extortion, the recipient shall follow the reporting procedures and inform the support coordinator, provider, and appropriate authorities.

Recipients and providers shall cooperate in the investigation and resolution of reported critical incidents/complaints.

Recipients must maintain a safe and lawful home environment and may not request providers to perform tasks that are illegal or inappropriate, and they may not violate the rights of other recipients.

Civil Rights

Providers shall operate in accordance with Title VI and VII of the Civil Rights Act of 1964, as amended and the Vietnam Veterans Readjustment Act of 1974 and all requirements imposed by or pursuant to the regulations of the U.S. Department of Health and Human Services (DHHS). This means that individuals are accepted and that all services and facilities are available to persons without regard to race, color, religion, age, sex, or national origin. Recipients have the responsibility to cooperate with their providers by not requesting services which in any way violate these laws.

Notification of Changes

The Bureau of Health Services Financing (BHSF) is responsible for determining financial eligibility for the ADHC Waiver recipients. In order to maintain eligibility, recipients and providers have the responsibility to inform BHSF of changes in the recipient's income, resources, address, and living situation.

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OAAS or its designee is responsible for approving level of care and medical certification. Recipients and their providers have the responsibility to inform OAAS of any changes which affect programmatic waiver eligibility requirements, including changes in level of care.

Grievances/Complaints

The recipient has a responsibility to bring problems to the attention of providers or the Medicaid program and to file a grievance/complaint without fear of retribution, retaliation, or discharge.

All support coordination and providers must have grievance procedures through which recipients may voice complaints regarding the supports or services they receive. Recipients must be provided a copy of the grievance procedures upon admission to a provider and complaint/grievance forms shall be given to recipients thereafter upon request. It is the recipient's right to contact any advocacy resource as needed, especially during grievance procedures.

If recipients need assistance, clarification, or to report a complaint, toll-free numbers are available (See Appendix A for contact information.).

Fair Hearings

Recipients must be advised of their rights to appeal any agency action or decision resulting in suspension, reduction, discontinuance, or termination of services. Recipients have the right to a fair hearing through the Division of Administrative Law (DAL). In the event of a fair hearing, a representative of the service provider and support coordination agency must participate by telephone or in person, if requested.

An appeal by the recipient may be filed with DAL via fax, mail, online request, or by telephone. (See Appendix A for contact information.) Instructions for submitting appeal request are also included in all adverse action notices.

Rights and Responsibilities Form

The support coordinator is responsible for reviewing the recipient's rights and responsibilities with the recipient and his/her responsible representative as part of the initial intake process and at least annually thereafter. (See Appendix B for information on accessing the *Office of Aging and Adult Services (OAAS) Rights and Responsibilities for Applicants/Participants of Home and Community-Based Services (HCBS) Waiver* form.)