
CHAPTER 9: ADULT DAY HEALTH CARE WAIVER

SECTION 9.3: BENEFICIARY RIGHTS/RESPONSIBILITIES PAGE(S) 7

BENEFICIARY RIGHTS AND RESPONSIBILITIES

Beneficiaries have specific rights and responsibilities that accompany eligibility and participation in the Medicaid and Medicaid waiver programs. Support coordination agencies and service providers must assist beneficiaries to exercise their rights and responsibilities. Every effort must be made to assure that applicants or beneficiaries understand their available choices and the consequences of those choices. Support coordination agencies and service providers are bound by their provider agreement with Medicaid to adhere to the following policies on beneficiary rights. (See Appendix B for the link to the “OAAS Rights and Responsibilities of Applicants/Participants of HCBS for Waiver” form).

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

1. Program of All-Inclusive Care for the Elderly (PACE);
2. Long Term - Personal Care Services (LT-PCS);
3. Community Choices Waiver (CCW); and
4. ADHC Waiver.

Freedom of Choice - Program

Individuals who have been offered waiver services have the freedom to select between institutional care services and 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.

CHAPTER 9: ADULT DAY HEALTH CARE WAIVER

SECTION 9.3: BENEFICIARY RIGHTS/RESPONSIBILITIES PAGE(S) 7

Freedom of Choice - Agencies/Providers

Beneficiaries have the freedom of choice to select their support coordination agency/providers. Beneficiaries 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	Beneficiaries must have been with the support coordination agency at least six (6) months	Any time
Adult Day Health Care (ADHC) ADHC Health Status Monitoring	Once every six (6) months with the change effective beginning the first day of the following calendar quarter	Any time
Transition Service Assistive Technology	Not Applicable	Not Applicable
Home Delivered Meals Activity and Sensor Monitoring Personal Emergency Response System (PERS)	Every six (6) months	Any time

Good cause is defined as:

1. Beneficiary moving to another region in the state where the current provider/agency does not provide services;
2. Beneficiary and the provider/agency have unresolved difficulties and mutually agree to a transfer;
3. Beneficiary's health or welfare has been compromised; or

CHAPTER 9: ADULT DAY HEALTH CARE WAIVER

SECTION 9.3: BENEFICIARY RIGHTS/RESPONSIBILITIES PAGE(S) 7

4. Provider/agency has not rendered services in a manner satisfactory to the beneficiary.

Support coordinators will provide beneficiaries with the provider Freedom of Choice list(s) and help arrange and coordinate the services on the Plan of Care (POC).

The OAAS, or its designee will provide beneficiaries with their choice of support coordination agencies.

Adequacy of Care

All beneficiaries in HCBS waiver programs have the right to choose and receive the services necessary to support them to live in a community setting. Beneficiaries 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. If beneficiaries request a service, and the support coordinator does not include that service in the POC, beneficiaries must contact OAAS Regional Office. Administrative limits are placed on some services according to the waiver document that is authorized and approved by the Centers for Medicare and Medicaid Services (CMS).

Beneficiaries have the responsibility to request only those services that 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 beneficiary to be able to stay in the community and are revised on the POC as each beneficiary’s needs change. The support coordinator must be informed anytime there is a change in the beneficiary’s health, medication, physical conditions, and/or living situation.

Participation in Care

Each beneficiary 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 beneficiary 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 beneficiary’s needs. By taking an active part in planning their services, the beneficiary is better able to utilize the available supports and services. The beneficiary is expected to participate in the planning process to the best of the beneficiary’s ability so that services can be delivered according to the approved person-centered POC. The beneficiary shall report any service need change to their support coordinator and service provider(s).

Changes in the amount of services must be requested by the beneficiary and submitted to the support coordinator as soon as the need is identified. The support coordinator will prepare and

CHAPTER 9: ADULT DAY HEALTH CARE WAIVER

SECTION 9.3: BENEFICIARY RIGHTS/RESPONSIBILITIES PAGE(S) 7

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 beneficiary. The OAAS regional office or its designee must approve these changes.

Voluntary Participation

Beneficiaries have the right to:

1. Request services under the ADHC Waiver program;
2. Refuse services;
3. Be informed of the alternative services available to them; and
4. Know the consequences of their decisions.

As a result, a beneficiary is not required to accept services or participate in activities they do not want to, The intent of the ADHC Waiver is to provide HCBS to beneficiaries who would otherwise require care in a nursing facility.

Providers must reasonably assure that the beneficiary'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 beneficiary's needs.

Quality of Care

Each HCBS waiver beneficiary 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 beneficiary's services.

Beneficiaries have the right to be free from the following types of abuse:

1. Mental;
2. Physical;
3. Emotional;
4. Coercion;

CHAPTER 9: ADULT DAY HEALTH CARE WAIVER

SECTION 9.3: BENEFICIARY RIGHTS/RESPONSIBILITIES PAGE(S) 7

5. Restraints;
6. Seclusion; and
7. 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 beneficiary shall follow the reporting procedures and inform the support coordinator, provider, and appropriate authorities.

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

Beneficiaries must:

1. Maintain a safe and lawful home environment;
2. May not request providers to perform tasks that are illegal or inappropriate; and
3. Not violate the rights of other beneficiaries.

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 beneficiaries are accepted and that all services and facilities are available to beneficiaries without regard to race, color, religion, age, sex, or national origin. Beneficiaries have the responsibility to cooperate with their agencies/providers by not requesting services which in any way violate these laws.

Notification of Changes

The Bureau of Health Services Financing (BHSF)/Medicaid is responsible for determining financial eligibility for the ADHC Waiver beneficiaries. In order to maintain eligibility, beneficiaries and providers have the responsibility to inform BHSF/Medicaid of changes in the beneficiary's:

1. Income;
2. Resources;

CHAPTER 9: ADULT DAY HEALTH CARE WAIVER

SECTION 9.3: BENEFICIARY RIGHTS/RESPONSIBILITIES PAGE(S) 7

3. Address; and
4. Living situation.

OAAS or its designee is responsible for approving the nursing home level of care (NFLOC) and medical certification. Beneficiaries 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 beneficiary 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 agencies and providers must have grievance procedures through which beneficiaries may voice complaints regarding the supports or services they receive. Upon admission, support coordination agency providers must provide a copy of their complaint/grievance procedures. Any time after admission, complaint/grievance procedures and forms shall be given to the beneficiaries upon request. It is the beneficiary's right to contact any advocacy resource as needed, especially during grievance procedures.

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

Fair Hearings

Beneficiaries must be advised of their rights to appeal any agency action or decision resulting in the following:

1. Suspension;
2. Reduction;
3. Discontinuation; or
4. Termination of services.

Beneficiaries 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.

CHAPTER 9: ADULT DAY HEALTH CARE WAIVER

SECTION 9.3: BENEFICIARY RIGHTS/RESPONSIBILITIES PAGE(S) 7

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

Rights and Responsibilities Form

The support coordinator is responsible for reviewing the beneficiary's rights and responsibilities with the beneficiary and their responsible representative as part of the initial intake process and at least annually, usually at the annual POC meeting, 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).