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**CHAPTER 30: PERSONAL CARE SERVICES**

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**RECIPIENT RIGHTS AND RESPONSIBILITIES**

Recipients have specific rights and responsibilities that accompany eligibility and participation in the Medicaid programs. OAAS, or its designee, and 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. Providers are bound by their provider agreement with Medicaid to adhere to the following policies on recipient rights.

Each individual who requests LT-PCS has the option to designate a responsible representative to assist or act on his/her behalf in the process of accessing and/or maintaining LT-PCS. 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 recipients in a Medicaid Home and Community-Based Services 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.

**Rights and Responsibilities Form**

OAAS, or its designee, is responsible for reviewing the recipient's rights and responsibilities with the recipient and/or his/her personal representative as part of the initial intake process and at least annually thereafter. (See Appendix A for information on accessing the *Office of Aging and Adult Services (OAAS) Rights and Responsibilities for LT-PCS Applicants/Participants* form.)

**Freedom of Choice of Providers**

Recipients have the freedom of choice to select their providers. A list of enrolled providers is given to the recipient at every assessment visit. When the recipient chooses a provider, or chooses to change his/her provider, the recipient must contact OAAS or its designee.

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Recipients may make provider changes based on the following schedule:

Type of Service	Without Good Cause	With Good Cause
LT-PCS	Every 3 months based on a calendar quarter	Any time

Good cause is defined as:

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

OAAS, or its designee, will provide recipients with their choice of providers and help arrange and coordinate all the services on the Plan of Care (POC).

**Changing Providers**

All requests for change of provider must be submitted in writing to the LTC Access contractor. Providers will receive written notification when approval has been given for recipients to change providers.

**Adequacy of Care**

Recipients have the responsibility to request only those services that are necessary and not request excess services, or services for the convenience of employees or providers. 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. OAAS, or its designee, must be informed any time there is a change in the recipient’s health, medication, physical conditions, caregiver status, and/or living situation.

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**Participation in Care**

Each recipient must participate in the assessment and person-centered planning meetings and any other meeting involving decisions about services and supports to be provided. 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 to the approved person-centered POC. Changes in the amount of services may be requested by the recipient or by a provider on behalf of the recipient. OAAS, or its designee, will verify ALL requests with the recipient.

**Voluntary Participation**

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

**Quality of Care**

Each LT-PCS recipient has the right to be treated with dignity and respect and receive services from providers and their 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 recipient's 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 must follow the reporting procedures and inform the provider and appropriate authorities.

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

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**Civil Rights**

Providers must 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. 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 LT-PCS 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.

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

**Grievances/Complaints**

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

All direct service 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 direct service 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 B for contact information*).

**Fair Hearings**

Recipients must be advised of their rights to appeal any action or decision resulting in an adverse action or determination. This include denials, suspension, reduction, discontinuance, or termination of services. Recipients have the right to an appeal/fair hearing through the Division

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of Administrative Law (DAL). In the event of a fair hearing, a representative of the direct service provider (DSP) must participate by telephone, or in person, if requested.

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