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**CHAPTER 43: SUPPORTS WAIVER**

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**RIGHTS AND RESPONSIBILITIES**

Beneficiaries of Supports Waiver (SW) services are entitled to the specific rights and responsibilities that accompany eligibility and participation in the Medicaid and Medicaid waiver programs, and those contained in the Louisiana Developmental Disability Law of 2005 (Louisiana R.S. 28:452.1).

Support coordinators and service providers must assist beneficiaries with exercising 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 coordinators and service providers are bound by their provider agreement with Medicaid to adhere to the following policies regarding beneficiary rights.

**Freedom of Choice**

Applicants/beneficiaries who qualify for an intermediate care facility for individuals with intellectual disability (ICF/IID) level of care, have the freedom to select institutional or community-based services. Applicants/beneficiaries have the responsibility to participate in the evaluation process. This includes providing the medical and other pertinent information or assisting in obtaining it for use in the person-centered planning process and certification for services.

**Notification of Changes**

Support coordinators and service providers may not approve or deny eligibility for the waiver or approve services in the waiver program.

The Louisiana Department of Health (LDH) - Bureau of Health Services Financing (BHSF) is responsible for determining financial eligibility for the SW program. In order to maintain eligibility, beneficiaries have the responsibility to inform BHSF of changes in their income, address, and living situation.

LDH - Office for Citizens with Developmental Disabilities (OCDD) through the local governing authority (LGE) is responsible for approving level of care and medical certification per the plan of care (POC). In order to maintain this certification, beneficiaries have the responsibility to inform OCDD through their support coordinator of any significant changes, which will affect their service needs.

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**Participation in Care**

Support coordinators and service providers shall ensure that beneficiaries/authorized representatives participate in all person-centered planning meetings and any other meeting concerning their services and supports. Person-centered planning will be utilized in developing all services and supports to meet the beneficiary's unmet needs. By taking an active part in planning his/her services, the beneficiary is better able to utilize the available supports and services.

In order for providers to offer the level of service necessary to ensure the beneficiary's health, welfare, and support needs are met, the beneficiary must report any change in his/her service needs or interests to the support coordinator and service provider(s).

The support coordinator must request changes in the amount of services at least seven days before taking effect, except in emergencies. Service providers may not initiate requests for change of service or modify the POC without the participation and consent of the beneficiary.

**Freedom of Choice of Support Coordination and Service Providers**

Support coordinators should be aware that at the time of admission to the waiver and every six months thereafter, beneficiaries have the opportunity to change support coordination providers, if one is available. Beneficiaries may request a change by contacting the LGE.

Support coordinators will provide beneficiaries with their choice of direct service providers and help arrange for the services included in the POC. Beneficiaries have the opportunity to choose service providers initially, and once every service authorization quarter (three months), unless a change is requested for good cause.

**Voluntary Participation**

Providers must 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 and outcomes. Beneficiaries 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 beneficiary will not be required to receive services that he/she may be eligible for but does not wish to receive. The intent of the SW program is to provide community-based services to individuals who would otherwise require institutionalization.

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**Compliance with Civil Rights**

Providers shall operate in accordance with Titles 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 all services and facilities are available to persons without regard to race, color, religion, age, sex, or national origin. Beneficiaries have the responsibility to cooperate with providers by not requesting services which, in any way, violate state or federal laws.

**Quality of Care**

Providers must be competent, trained, and qualified to provide services to beneficiaries as outlined in the POC. In cases where services are not delivered according to the POC, or there is abuse or neglect on the part of the provider, the beneficiary shall follow the complaint reporting procedure and cooperate in the investigation and resolution of the complaint. Beneficiaries may not request providers to perform tasks that are illegal or inappropriate, and beneficiaries may not violate the rights of providers.

**Grievances/Fair Hearings**

Each support coordination/direct service provider shall have grievance procedures through which beneficiaries may grieve the supports or services they receive. The support coordinator shall advise beneficiaries of this right and of their rights to appeal any denial or exclusion from the program or failure to recognize a beneficiary's choice of a service and of his/her right to a fair hearing through the Medicaid program. In the event of a fair hearing, a representative of the service provider and support coordination agency shall appear and participate in the proceedings.

The beneficiary has a responsibility to bring problems to the attention of providers or the Medicaid program and to participate in the grievance or appeal process.

**Additional Rights**

Beneficiaries have the right to control their personal resources, engage in community life and receive services in the community to the same degree of access as individuals not receiving

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home and community based services, including employment. Individuals have a choice regarding services and supports, and who provides them.

Additional rights include, but are not limited to, the following:

1. Freedom and support to control their own schedule and activities;
2. Access to food at any time, unless contraindicated due to health and safety and documented in the plan of care;
3. Freedom to furnish and decorate their sleeping or living units within the lease or other agreement;
4. Visitors of their choosing at any time;
5. A setting that must be physically accessible to the individual; and
6. Control of personal resources, including wages earned from employment.

**Rights and Responsibilities Form**

For a complete list of the beneficiary's rights and responsibilities, refer to Appendix D. The support coordinator must review these rights and responsibilities with the beneficiary and his/her authorized representative as part of the initial intake process into waiver services and annually, thereafter.