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Reference Number: 736-01-DD

Title of Document: Relatives/Family Members Serving As Paid Caregivers of Certain Medicaid Waiver Services

Date of Issue: December 1, 2004
Effective Date: November 1, 2004
Last Review Date: August 27, 2014
Date of Last Revision: August 27, 2014 (REVISED)

Applicability: ID/RD Waiver: Personal Care I and II, Adult Attendant Care, Nursing Services

HASCI Waiver: Attendant Care/Personal Assistance Services Medicaid Waiver Nursing

Community Supports Waiver: Personal Care, In-Home Support

Pervasive Developmental Disorder Waiver: EIBI Line Therapy (Self-directed)

PURPOSE:

The purpose of this directive is to implement the state Medicaid policy regarding relatives serving as paid caregivers, to clarify the policy and to establish procedures for implementing the policy.

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POLICY:

Relatives/family members of a Waiver participant may be paid to provide the waiver services noted in the “applicability” section of this policy when the relatives/family members are not legally responsible relatives/family members and meets all South Carolina Medicaid provider qualifications.

The following relatives/family members will not be paid for providing the noted services:

1. The spouse of the Medicaid Waiver participant.
2. A parent of a minor Medicaid Waiver participant.
3. A foster parent of a minor Medicaid Waiver participant.
4. A guardian of a minor Medicaid Waiver participant.
5. A court appointed guardian of an adult Medicaid Waiver participant.
6. Step-parent of a minor Medicaid Waiver participant.

The following relatives/family members may be paid for providing the noted services when all South Carolina Medicaid provider qualifications are met:

1. A parent of an adult Medicaid Waiver participant.
2. A non-legally responsible relative/family member of a minor or adult Medicaid Waiver participant.

Relatives/family members who are a primary caregiver of the Waiver participant will not be paid for **all** of the care he/she provides. The amount to be paid will be based on the Waiver participant’s needs as determined by his/her Case Manager in accordance with DDSN Policy. DDSN relies on the informal supports provided by family members to Waiver participants. Only the needs of the Waiver participant will be considered. Services of specific benefit to the Waiver participant will be authorized. Services that benefit the entire household will not be authorized.

A by-product of the provision of these services by those outside of the Waiver participant’s home is that it affords the primary caregiver some relief or break from the responsibilities of care giving. A family member who is also a primary caregiver and who opts to be paid for a portion of the care/service he/she provides, will not also be authorized to receive additional respite services. The need for respite in these situations will be assessed as if the care/service were being provided by a non-family or non-primary caregiver.

CLARIFICATIONS:

For purposes of this policy, “legally responsible” means “Legal Guardian.” SC Code Ann. § 44-23-10(7) (Supp. 2013), defines a guardian as a person who legally has the care and management of the person of one who is not legally competent. S.C. Code Ann. § 63-5-30 (Supp. 2013), dictates parents are the joint natural guardians of their minor children.

This policy is not applicable to respite caregivers. See DDSN Directive 735-02-DD: Relatives/Family Members Service As Paid Caregivers of Respite Services.

For purposes of this policy, “minor” is defined as “An infant or person who is under the age of legal competence, which in South Carolina is age 18.”

This policy allows payment to non-legally responsible family members (brother, sister, step parent, grandparent etc.) living in the same household as the Medicaid Waiver participant.

The policy states that relatives/family members who are paid for care/services must meet all South Carolina Medicaid provider qualifications. Those qualifications are outlined in Appendix B of the ID/RD Waiver, Community Supports Waiver and the HASCI Waiver documents and in Chapters 9 and 11 of the Pervasive Developmental Disorder Waiver Manual.

Contracted providers, including DSN Boards, are under no obligation to hire relatives/family members to provide services.

When unclear, final determinations about a relative or family member’s eligibility to receive payment under this policy will be made by DHHS General Counsel.

PROCEDURAL INFORMATION:

When a relative/family member wishes to be paid for providing one of the services noted in this policy, the Waiver participant’s Case Manager should refer the relative/family member to the appropriate entity as indicated below.

A. ID/RD Waiver Services:

For Personal Care I, refer to:

- ◆ any company or agency directly enrolled as a provider with the Medicaid Agency

For Adult Attendant Care Services, refer to:

- ◆ the UAP Self- Directed Attendant Care Program
- ◆ Jasper Disabilities and Special Needs Board (the fiscal agent)

NOTE: Aides who provide Adult Attendant Care must do so under the supervision of a nurse. The person who directs attendant care may not choose themselves as the attendant care provider and may not provide any attendant care services for reimbursement through the ID/RD Waiver. Please refer to the ID/RD Waiver Manual for specifics.

For Nursing Services, refer to:

- ◆ any company or agency directly enrolled as a provider with the Medicaid Agency

B. HASCI Waiver Services:

For Attendant Care/Personal Assistance Services, refer to:

- ♦ any company/agency directly enrolled as an Attendant Care provider with the Medicaid Agency, or
- ♦ the UAP Self- Directed Attendant Care Program, or
- ♦ Jasper Disabilities and Special Needs Board (the fiscal agent for Self-Directed Attendant Care only)
- ♦ the DSN Board/Qualified Provider serving the Waiver participant

***NOTE:** Attendant Care/Personal Assistance Services must be provided under the supervision of a licensed nurse. A HASCI Waiver participant or representative can assume supervision if the Waiver participant participates in the UAP Consumer Directed Attendant Care Program.*

For Medicaid Waiver Nursing Services, refer to:

- ♦ any company or agency enrolled as a provider with the Medicaid Agency

C. Community Supports Waiver Services:

For Personal Care, refer to:

- ♦ any company or agency directly enrolled as a provider with the Medicaid Agency

For In-home Support, refer to:

- ♦ University of South Carolina's Center for Disability Resources (The Case Manager will complete the Center for Disability Resources Request for Technical Assistance for the Community Supports Waiver (Community Support Form IH-6) to make the referral)
- ♦ Jasper Disabilities and Special Needs Board (the fiscal agent)

D. Pervasive Developmental Disorder Waiver Services:

For EIBI Line Therapists –Self-Directed Services

- ♦ Jasper Disabilities and Special Needs Board (the fiscal agent)

For EIBI Line Therapists

- ♦ any company or agency directly enrolled as a provider with the Medicaid Agency

When a DSN Board/qualified provider hires a relative/family member, documentation that the family member is not legally responsible, as previously defined for the Waiver participant, must

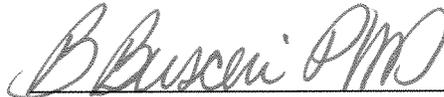
be maintained. The "Statement of Legal Responsibility" form, which is attached to this policy, should be used to document this relationship. Documentation must also reflect that caregivers who provide services funded by the ID/RD, HASCI, Community Supports, and PDD Waivers are competent in designated areas and meet other minimum qualifications as specified in the applicable waiver manuals.

When unclear, questions about a relative or family member's eligibility to receive payment under this policy must be sent to ID/RD, HASCI, Community Supports or PDD Waiver staff who will forward to DHHS General Counsel for determination.

Case Managers will be expected to monitor the services with the same frequency as would be required if provided by a non-relative caregiver.



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(Originator)



Beverly A.H. Buscemi, Ph.D.
State Director
(Approved)

To access the following attachments, please see the agency website page "Attachments to Directives" under this directive number

Attachment 1: Statement of Legal Responsibility
Attachment 2: Guidance to Case Managers/Early Interventionists for Assisting with the Determination of Legal Responsibility