

TITLE 210 – EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

CHAPTER 50 – Medicaid Long Term Services and Supports

SUBCHAPTER 10 – Home and Community Based LTSS

PART 2 – ~~Personal Choice~~ (Self-Directed Care)

2.1 ~~Overview~~Purpose

These rules are designed to regulate Self-Directed care, which allows participants to have the responsibility for managing their service delivery in a person-centered model. Self-direction promotes personal choice and control over the delivery of waiver and state plan services, including who provides the services and how services are provided. Self-Directed services are intended to support community tenure and independence.

2.2 Applicability

BA. Program descriptions

1. The Personal Choice Program (PCP) provides consumer-directed home and community-based services to Medicaid long-term services and supports (LTSS) eligible ~~consumers~~beneficiaries. Personal Choice is a long-term care service for individuals with disabilities who are over the age of eighteen (18) or elders aged sixty-five (65) or over who meet either a high or highest level of care. Services are geared toward reducing unnecessary institutionalization by providing specialized home and community-bases services to qualified Medicaid ~~beneficiaries~~ atconsumers at an aggregate cost which is less than or equal to the cost of institutional or nursing facility care.

2. ~~Personal Choice is available to individuals who want to either return home or remain at home; for individuals who want to purchase their own care and services from a budget based on their individual functional needs; and for individuals who have the ability to self-direct care or who have a representative who is able to direct care for the participant.~~

C. ~~The goal of the Personal Choice Program is to provide a home and community-based program providing beneficiaries with the opportunity to exercise choice and control, such as hiring, firing, supervising, and managing individuals who provide their personal care, and to exercise choice and control over a specified amount of funds in a beneficiary directed budget. Participants in the PCP are assigned to a Service Advisement Agency and Fiscal Agent to assist in making~~

informed decisions that are consistent with their needs and reflect their unique individual circumstances.

D. The following services supplement the existing scope of services covered by Medical Assistance, Medicare, and other programs and services available to beneficiaries in the PCP:

1. Service Advisement

2. Fiscal Intermediary Services

3. Personal Care Assistance

4. PCP Directed Goods and Services

5. Home Modifications

6. Home Delivered Meals

7. Personal Emergency Response Systems (PERS)

8. Special Medical Equipment (Minor Assistive Devices).

E. PCP applicants must have the ability to manage their own personal care or if they are unable, must be willing to have a representative assist them in managing some or all of the program requirements. A representative is a person designated by the beneficiary to assist him/her in managing some or all facets of participation in the program. Beneficiaries cannot pay representatives from the PCP budget. PCP participants or their representatives hire personal care attendants (PCA) to provide personal care, and assistance with housekeeping, homemaking, and household chores.

F. All Personal Care Attendants and beneficiary representatives that have direct contact with PCP beneficiaries must submit to a National and a RI Bureau of Criminal Identification (BCI) screening and an Abuse Registry Record Check annually to be authorized to provide PCP assistance to PCP beneficiaries under the PCP. To participate in the PCP as the beneficiary's representative or in a provider (PCA) capacity, there must be no evidence of criminal activity in the BCI record check. This condition also applies to the members of a provider's household if the PCP beneficiary resides or receives services in the provider's home. Evidence of criminal activity is defined as a conviction or plea of nolo contendere in any criminal matter or the fact that the individual has outstanding or pending charges, related to any types of Disqualifying Criminal Convictions as cited in both the Personal Choice Participant/Representative Manual and Provider Manual available through the EOHHHS or obtained on its website: www.eohhs.ri.gov.

Individual Provider Model (IP) - The IP is a self-directed pathway available to all adult LTSS consumers choosing services in an at-home setting who are seeking to self-direct only nonmedical personal care and homemaker services for individuals with disabilities who are over the age of eighteen (18) or elders aged sixty-five (65) or over who meet either a high or highest level of care. The LTSS consumer has the flexibility to select a trained Personal Care Aide (PCA) of choice and self-direct the schedule and way the IP authorized services are provided by the PCA.

- B. These regulations do not apply to Intellectual and Developmental Disabilities (I/DD) Self-Directed programs funded by the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals pursuant to R.I. Gen. Laws Chapter 40.1-1-13. To reference the BHDDH regulations for Self-Directed services, please refer to the Rules and Regulations for Developmental Disability Organization §§ 212-RICR-10-05-1.10.3 Fiscal Intermediary Services and 212-RICR-10-05-1.2(A)(42) Definitions.
- C. Pursuant to R.I. Gen. Laws § 40-8.15-2(b), nothing in this Part shall interfere with the regulatory authority of the Rhode Island Department of Health (RIDOH) over individual providers' licensing.

2.23 ~~Legal Authority~~

_____ Title XIX of the Social Security Act provides the legal authority for the Rhode Island Medicaid Program. The Medicaid Program also operates under a waiver granted by the Secretary of Health and Human Services pursuant to Section 1115 of the Social Security Act. Additionally, R.I. Gen. Laws Chapters 40-6, 40-8, ~~and 40-18, (“Long Term Home Health Care—Alternative to Placement in a Skilled Nursing or Intermediate Care Facility”)~~ 40-8.14, and 40-8.15 serve as the enabling statutes for the Individual Provider and Personal Choice Programs.

2.34 ~~Definitions-~~

- A. The following terms, which are listed alphabetically, are ~~used~~ referenced in ~~determining eligibility for the Personal Choice Program-~~ this regulation.
1. "Activities of daily living skills" or "ADLs" means everyday routines generally involving functional mobility and personal care, ~~such as including but not limited to,~~ bathing, dressing, eating, toileting, mobility and transfer.
 2. "Applicant" means new applicants for Medicaid as well as current recipients at any point in which eligibility is determined or redetermined.
 3. "Case management services" means the coordination of a plan of care and services provided at home to ~~persons~~ individuals with disabilities who are ~~medically eligible for placement in a skilled nursing facility over the age of eighteen (18) or an intermediate elders aged sixty-five (65) or over who meet either a high or highest level of care facility.~~ Such programs shall be provided in the person's home or in the home of a responsible relative or other responsible adult, but not provided in a skilled nursing facility and/or an intermediate care facility.
 4. "Consumer" means the individual, also referred to as the beneficiary or participant, who utilizes services in any of the self-directed models.
 45. "Critical incident" means any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety or well-being of a participant.
 56. "Environmental modifications" or "Home accessibility adaptations" means modifications" are defined as those physical adaptations to the ~~private residence~~ home of the participant or the participant's family, ~~as~~ required by the participant's service plan, that are necessary to ensure the health, welfare and safety of the participant or that enable the participant to ~~function with-~~

greater attain or retain capability for independence or self-care in the home, and to avoid institutionalization, and are not covered or available under any other funding source. A completed home assessment by a specially trained and certified rehabilitation professional is also required. Such adaptations may include the installation of modular ramps and, grab bars, widening of doorways, modification of bathroom facilities, or the installation of specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the participant, vertical platform lifts and interior stair lifts. Excluded are those adaptations or improvements to the home that are of general utility, and are not of direct medical or remedial benefit to the participant. Excluded are any re-modeling, construction, or structural changes to the home, i.e. (changes in load bearing walls or structures) that would require a structural engineer, architect and /or certification by a building inspector.

a. Adaptations that add to the total square footage of the home are excluded from this benefit except when necessary to complete an adaptation, such as to improve entrance/egress to a residence or to configure a bathroom to accommodate a wheel chair. All services adaptations shall be provided in accordance with applicable State or local building codes, and are prior approved approval on an individual basis by EOHHS/Medicaid. Office of Durable Medical Equipment, is required.

b. Items should be of a nature that they are transferable if a participant moves from his/her place of residence.

67. “Fiscal intermediary services” or “(FI)” for the Personal Choice Program means services that are designed to assist the participant participants in allocating funds as outlined in the Individual Service and Spending Plan and to facilitate employment of personal assistance staff by the participant.

78. “Home modifications” means equipment and/or adaptations to an individual’s residence to enable the individual to remain in his/her home or place of residence, and ensure safety, security, and accessibility. “Fiscal Intermediary services” (FI) for the Individual Provider Program means services that are designed to assist participants in utilizing hours as outlined in the Individual Service Plan and to facilitate employment of personal assistance staff by the participant. The FI also functions as the agency to assist in the management of financial and employer responsibilities.

89. “Home delivered meals” means the delivery of hot meals and shelf staples to the participant’s residence. Meals are available to individuals unable to care for their nutritional needs because of a functional dependency/ disability and who require this assistance to live in the community. Meals provided under this service will not constitute a full daily nutritional requirement. Meals must provide a minimum of one third of the current recommended dietary allowance. Provision of home delivered meals will result in less assistance being authorized for meal preparation for individual participants, if applicable.

910. “Instrumental activities of daily living” or “IADL” means the activities often performed by a person who is related to living independently in a the community setting during the course of a normal day, such as, including but not limited to, meal planning and preparation, managing money finances,

shopping, telephone use, travel for food, clothing, and other essential items, performing essential household chores, communicating by phone or other media, and traveling around and participating in the community, housekeeping, preparing meals, and taking medications correctly.

11. “Mandatory orientations” means training required by EOHHS for all PCAs participating in the IP program. Mandatory Orientations include program overview and structure, policy and procedure explanation, review of ethics, accountability, HIPAA and Electronic Visit Verification (EVV), coverage of abuse and neglect, IP PCA scope of work and excluded duties, infection control and safety.

1012. “Medical necessity” or “Medically necessary services” means medical, surgical, or other services required for the prevention, diagnosis, cure or treatment of a health-related condition including services necessary to prevent a detrimental change in either medical or mental health status.

1113. “Minor environmental modifications” means minor modifications to the home that may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats and other simple devices or appliances such as eating utensils, transfer bath bench, shower chair, aides for personal care and standing poles to improve home accessibility adaptation, health or safety.

14. “Nonmedical” means not involving, relating to, used in, or concerned with medical care or the field of medicine.

1215. “Participant directed goods and services” means services, equipment or supplies not otherwise provided through this program Medicare or through the Medicaid State Plan, that address an identified need and are in the approved Individual Service Plan (including improving and maintaining the individual’s opportunities for full membership in the community) and meet the following requirements: the item or service would decrease the need for other Medicaid services; AND/OR promote inclusion in the community; AND/OR the item or service would increase the individual’s ability to perform ADLs or IADLs; AND/OR increase the person’s safety in the home environment; AND, alternative funding sources are not available. Individual Goods and Services are purchased from the individual’s self-directed budget through the fiscal intermediary when approved as part of the ISP. Examples include a laundry service for a person unable to launder and fold clothes or a microwave for a person unable to use a stove due to his/her disability. This will not include any good/service that would be restrictive to the individual or strictly experimental in nature.

1316. “Personal care assistance services” means the provision of direct support services provided in the home or community to individuals in performing tasks they are functionally unable to complete independently due to disability, based on the Individual Service and Spending Plan, or the Individual Service Plan. Personal Assistance Services may include but are not limited to:

- a. Participant assistance with activities of daily living, such as grooming, personal hygiene, toileting, bathing, and dressing
- b. Assistance with monitoring health status and physical condition
- c. Assistance with preparation and eating of meals (not the cost of the meals itself)

- d. Assistance with housekeeping activities (bed making, dusting, vacuuming, laundry, grocery shopping, cleaning)
- e. Assistance with transferring, ambulation; use of special mobility devices assisting the participant by directly providing or arranging transportation (If providing transportation in the Personal Choice Program, the PCA must have a valid driver's license and liability coverage as verified by the FI). PCAs may not provide transportation directly in the IP program.)

1417. "Personal emergency response" or "PERS" means an electronic device that enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the person's phone and programmed to signal a response center once a "help" button is activated. This service includes coverage for installation and a monthly service fee. Providers are responsible to insure the upkeep and maintenance of the devices/systems.

18. "Registry" means the official list, maintained by EOHHS or its designee, of qualified Personal Care Aide (PCAs) who are available to provide services. Consumers may utilize the registry when hiring PCAs through the IP program.

19. "Self-directed" means a consumer-controlled method of selecting and providing services and supports that allows the individual maximum control of the home and community-based aid services and supports, with the individual acting as the employer of record with necessary supports to perform that function, or the individual having a significant and meaningful role in the management of a provider of service when the agency-provider model is utilized. Individuals exercise as much control as desired to select, train, supervise, schedule, determine duties, and dismiss the aid care provider.

20. "Service Advisory Agency (SA)" means an agency that will assess service needs, assist with planning what services are needed and how to receive them, be an additional resource to the consumer, representative, and/or family to promote safety and quality of care

1521. "Service advisement team" means a team, consisting of the Service Advisor, a Nurse and a Mobility Specialist, that will focus on empowering participants to define and direct their own personal assistance needs and services.

1622. "Special medical equipment" or "Minor assistive devices" means the following:

- a. Devices, controls, or appliances, specified in the plan of care, which enable participants to increase their ability to perform activities of daily living;
- b. Devices, controls, or appliances that enable the participant to perceive, control, or communicate with the environment in which they live; including such other durable and non-durable medical equipment not available under the State Plan through the participant's medical insurance that is necessary to address participant functional limitations.

- c. Items reimbursed with waiver funds through the Personal Choice Program are in addition to any medical equipment and supplies furnished by Medicaid and exclude those items that are not of direct medical or remedial benefit to the participant. All items shall meet applicable standards of manufacture, design and installation. Provision of Specialized Medical Equipment requires prior approval on an individual basis by Medicaid.

~~1723.~~ “Supports for consumer direction” or “Supports facilitation” means empowering participants to define and direct their own personal assistance needs and services, guides and supports, rather than directs and manages, the participant through the service planning and delivery process.

~~2.4 SERVICE PROVISION~~

~~2.4.12.5~~ Eligibility-

- A. All general eligibility rules for Medicaid LTSS contained in the Rhode Island Code of Regulations, Subchapter 00 Part 1 of this Chapter Medicaid ~~Code of Administrative Rules, “Technical LTSS overview and Eligibility Requirements”, “Characteristic Requirements”, and “Cooperation Requirements” (Sections 0304, 0306, 0308)~~ Pathways and Subchapter 00 Part 4 of this Chapter Long-Term Services and Supports Application and Renewal Process apply to the ~~PCP Self-Directed Programs~~. Additional eligibility requirements for ~~the PCP Self-Directed Programs~~ are as follows:
 - 1. ~~Beneficiaries~~ Consumers who are either aged (age sixty-five (65) and older) or who have a disability and are at least eighteen (18) years old and are determined to have “high” or “highest” need for level of care and;
 - 2. Individuals who have demonstrated the ability and competence to direct their own care or have a qualified designated representative to direct care, and want to either ~~return or~~ remain in their home ~~or return to their home~~.
 - 3. Individuals who have been determined to be Developmentally Disabled and are receiving services via the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH) and are interested in the Personal Choice Program or Individual Provider program must be approved by BHDDH and EOHHS Medicaid.-
- B. Income
 - 1. All income eligibility rules contained ~~the in~~ Subchapter 00 Part 6 of this Chapter - Medicaid ~~Code of Administrative Rules, “Income Generally”, “Treatment of Income”, “Flexible Test of Income” (Sections 0386—0390), Long-Term Services and Supports: Financial Eligibility~~ and as amended from time to time, apply. If Medically Needy eligible, the applied income cannot exceed the cost of services.
- C. Resources
 - 1. All resource rules contained in the Medicaid ~~Code of Administrative Rules, “Resources Generally”, “Evaluation of Income”, “Resource Transfers” (Sections 0380—0384)~~, Subchapter 00 Part 6 of this Chapter - and as

amended from time to time, apply.

D. Post Eligibility Treatment of Income

1. Information relating to Post Eligibility Treatment of Income (PETI) can be found in Subchapter 00 Part 8 of this Chapter.~~Single Applicant:-~~
 - a. ~~Medicaid Code of Administrative Rules, “Waiver Programs and Provisions” (Section 0396.10.20), is used for personal needs deduction for Medically Needy persons.~~
 - b. ~~Medicaid Code of Administrative Rules, “Waiver Programs and Provisions” (Sections 0396.15.05 and 0396.10.05) are used in determining applied income.~~
2. ~~Married Applicant:-~~
 - a. ~~Medicaid Code of Administrative Rules, “Post Eligibility Treatment of Income” (Section 0392.15) is used to determine the income of a married applicant with a community spouse.~~
3. ~~Eligibility Determinations-~~
 - a. ~~Medicaid determines eligibility and calculates the beneficiary’s income to be allocated to the cost of care as necessary. Neither the Supplemental Security Income (SSI) payment itself nor any of the other income of an SSI recipient or former SSI recipients who are Categorically Needy under § 1619(b) of the Social Security Act may be allocated to offset the cost of the Personal Choice Program.~~
 - b. ~~For other beneficiaries participating in the PCP, income is reviewed for accuracy.~~
4. ~~Confirming Medicaid Eligibility Status-~~
 - a. ~~The Service Advisement Agency and Fiscal Intermediary Agency must confirm the beneficiary’s eligibility before PCP services are initiated and at the time of each reassessment of a beneficiary’s needs.~~
5. ~~Redetermination of Eligibility-~~
 - a. ~~EOHHS redetermines the Medicaid eligibility of PCP participants each year, unless a change occurs prior to the annual redetermination date. Such a change might include, but is not limited to: the inheritance of money; the transfer of an asset; or the death of a spouse, which results in a change in income.~~

2.6 Enrollment and Disenrollment

A. Enrollment

1. Enrollment in all Self-Directed programs is by choice. Individuals who wish to participate and who meet all the eligibility requirements may contact a Service Advisement Agency, a Fiscal Intermediary, or visit the EOHHS website

<http://www.eohhs.ri.gov/>.

EB. Involuntary Disenrollment-

1. When a Medicaid-eligible participant is involuntarily disenrolled from ~~the Personal Choice~~ a Self-Directed Program, the participant is referred to ~~Medicaid~~ EOHHS or BHDDH to explore other available options.
2. EOHHS ~~notifies~~ shall notify the participant in writing that they intend to remove the participant from ~~the Personal Choice~~ their Self-Directed Program, the reason for disenrollment, and ~~inform~~ shall inform the participant that services will be provided through Medicaid long-term care via a home health agency.
3. The participant ~~will~~ shall be involuntarily disenrolled from the ~~PCP~~ Self-Directed Program if he/she loses either Medicaid financial eligibility or level of care eligibility.
4. Disenrollment is determined by the Service Advisement Agency, and confirmed by EOHHS, based on an assessment in conjunction with the policies and procedures of that Agency, and/or the receipt of information from the Fiscal Intermediary or EOHHS. Involuntary disenrollment may also occur when:
 - a. ~~The participant~~ Participant or representative is unable to self-direct purchase and payment of LTSS.
 - b. A representative proves incapable of acting in the best interest of the participant, can no longer assist participant, and no replacement is available.
 - c. ~~The participant~~ Participant or representative fails to comply with legal/financial obligations as an “employer” of domestic workers and/or is unwilling to participate in advisement training or training to remedy non-compliance.
 - d. ~~The~~ if enrolled in Personal Choice, the participant or representative is unable to manage the monthly spending as evidenced by: repeatedly submitting time sheets for unauthorized budgeted amount of care; underutilizing the monthly budget, which results in inadequate services; and/or continuing attempts to spend budget funds on non-allowable items and services.
 - e. If enrolled in IP, the participant or representative is unable to manage the hours to be services as evidenced by: repeatedly submitting time sheets for unauthorized amount of care; underutilizing the hours allocated, which results in inadequate services; and/or continuing attempts add more hours than allocated.
 - ef. ~~The participant's~~ Participant's health and well-being is not maintained through the actions and/or inaction of the participant or representative.

- fg. ~~The participant~~Participant or representative fails to maintain a safe working environment for personal care.
- gh. EOHHS receives a complaint of ~~beneficiary~~participant self-neglect, neglect, or other abuse.
- hi. Either the participant or representative refuses to cooperate with minimum program oversight activities, even when staff has made efforts to accommodate the participant.
- ij. ~~The participant~~Participant or representative fails to pay the amount determined in the post eligibility treatment of income, as described in the ~~EOHHS Medicaid~~Rhode Island Code of Administrative Rules or Regulations, "Post-Eligibility Treatment of Income" (~~Section 0392.15~~Subchapter 00 Part 8 of this Chapter) to the fiscal agency.
- jk. There is evidence that Medicaid funds were used improperly/ illegally according to local, state or federal regulations.
- l. The Service Advisement agency determines they are unable to provide proper service. Proper service is defined as the agency not being able to meet repeated requests for services, being unable to satisfy your needs, and /or provide you with a quality working relationship.
- km. ~~A participant~~Participant or representative fails to notify both the Service Advisement agency and the Fiscal Intermediary of any change of address and/or telephone number within ten (10) days of the change.-

FC. Voluntary Disenrollment

1. ~~A participant~~Participant or representative may request discharge from ~~the Personal Choice a Self-Directed~~ Program with a thirty (30) day written notice to the ~~service advisement agency~~Service Advisement Agency and Fiscal Intermediary.
2. A participant's representative must provide both the ~~service-advisement agency and fiscal intermediary~~Service Advisement Agency and Fiscal Intermediary with a thirty (30) day written notice stating they are no longer able to provide representative services.-

GD. Disenrollment Appeal

1. The service advisement agency and the fiscal intermediary agency shall inform the participant in writing of an involuntary disenrollment with the reason and provides the participant with a Medicaid appeal procedure and request forms.
2. The PCP participant has the right to appeal utilizing the standard appeals process as described in Part 10-05-2 of this Title, "Appeals Process and Procedures for EOHHS Agencies and Programs."

2.57 Appeals Process

An opportunity for a hearing is granted to an applicant/recipient or his/her designated representative, when a person is aggrieved by an agency action resulting in a disenrollment, suspension, reduction, discontinuance, or termination of a consumer's beneficiary's services or budget, or a requested adjustment to the budget or service is denied in accordance with the provisions of Part 10-05-2 of this Title, "Appeals Process and Procedures for EOHHS Agencies and Programs."-

2.68 ADMINISTRATION AND ORGANIZATION Background Check Requirements for PCAs

A. All Personal Care Aides and consumer representatives that have direct contact with consumers must submit to a National and a RI Bureau of Criminal Identification (BCI) screening, Office of Inspector General (OIG) screenings, and an Abuse Registry Record Check annually to be authorized to provide assistance to consumers under the Self-Directed programs. To participate in the Self-Directed programs as the consumer's representative or in a provider (PCA) capacity, there must be no evidence of criminal activity in the BCI record check. This condition also applies to the members of a provider's household if the consumer resides or receives services in the provider's home. Evidence of criminal activity is defined as a conviction or plea of nolo contendere in any criminal matter or the fact that the individual has outstanding or pending charges, related to any types of Disqualifying Criminal Convictions as cited in the following manuals available through the EOHHS or obtained on its website (www.eohhs.ri.gov):

1. Personal Choice Participant Manual,
2. Personal Choice Representative Manual,
3. IP Participant Manual, or
4. IP Provider Manual.-

2.6.1 Medicaid Agency Responsibilities 9 Personal Choice Program

2.9.1 Eligibility

A. Consumers who are either aged (age sixty-five (65) or over) or who have a disability and are at least eighteen (18) years old and are determined to have "high" or "highest" need for level of care and;

B. Individuals who have demonstrated the ability and competence to direct their own care or have a qualified designated representative to direct care, and want to either remain in their home or return to their home

2.9.2 Assessments

- A. Minimum assessment components will be specified by EOHHS and be maintained in both the Personal Choice Participant/Representative Manual and Provider Manual available through EOHHS or obtained on its website: www.eohhs.ri.gov.
- ~~B. EOHHS, and/or its agents, reviews and determines level of care based on information provided by the service advisement agency. The applicant is clinically eligible for the Personal Choice Program if either a “high” or “highest” level of care is approved.~~
- ~~C. EOHHS staff are responsible for the following:~~
- ~~1. Approve budgets and individual service and spending plans;~~
 - ~~2. Authorization of participant-directed goods and services;~~
 - ~~3. Provide Personal Choice participants with notice of budget amount;~~
 - ~~4. Monitor and conduct quarterly audits of service advisement and fiscal intermediary agencies.~~
- D. The EOHHS reviews and approves the assessment and individual service and spending plan (ISSP) for each PCP participant before services begin.
- E. Any changes made to a PCP participant’s ISSP must be forwarded to EOHHS for review and approval.
- ~~F. Once the ISSP is approved, EOHHS will notify the appropriate service advisement agency who will inform the fiscal agency and participant that the ISSP will be implemented.~~
- ~~G. EOHHS is responsible for the review of reported critical incidents with the advisement agency to determine feasibility of continuing participation in the Personal Choice Program.~~
- ~~H. If Medicaid fraud is either known or suspected, EOHHS will refer the case to the appropriate authorities as outlined in the Medicaid Personal Choice Program Provider Manual (<http://www.eohhs.ri.gov/>).~~

~~2.6.2 Service Advisement Agency Role and Responsibilities~~

- ~~A. The Personal Choice Program (PCP) is considered as an option based upon the needs of an applicant. The applicant is then screened to determine his/her long-term care needs. The PCP is only open to participants who have “high” or “highest” LTC needs.~~
- B. Written documentation of the assessment will be maintained by the service advisement agency, such as the functional, mobility and health assessments.

~~G. The service advisor will provide the participant/representative with a copy of the approved budget and the approved ISSP.~~

~~D. Additional duties of the service advisement agency include, but are not limited to:~~

- ~~1. Review and assess the PCP participant's LTSS needs annually and assist in gathering the documents needed for EOHHS annual certification process. Such assessments may be conducted earlier if a participant's circumstances change.~~
- ~~2. Refer prospective PCP participants who have the required level of LTSS need to Medicaid for a full determination of clinical eligibility.~~
- ~~3. Assist the PCP participant in developing and implementing their individual service and spending plan (ISSP).~~
- ~~4. Monitor the PCP participant to ensure health and safety, satisfaction, adequacy of current spending plan, and progress toward participant goals in accordance with the guidelines developed by the Medicaid agency. This monitoring shall include regular home visits and annual assessments. Documentation of such program monitoring shall be provided to EOHHS.~~
- ~~5. Maintain minimum monitoring guidelines in accordance with the guidelines established by EOHHS and as outlined in the Provider agreement. These guidelines are posted on the Medicaid website, <http://www.eohhs.ri.gov/>.~~
- ~~6. Complete the critical incident reporting form as outlined in the Personal Choice Provider Manual, within twenty four (24) hours of the reported incident.~~

~~E. If Medicaid fraud is either known or suspected, the service advisement agency will refer the case to the appropriate authorities as outlined in the Personal Choice Program Provider Manual (<http://www.eohhs.ri.gov/>).~~

B. 2.6.3 Nursing Assessment by Service Advisement Agency

~~A. The Nursing Assessment is one of the multiple assessments done for the individual. - An assessment~~This assessment measures~~ng~~ Activities of Daily Living (ADLS) and Instrumental Activities of Daily Living (IADLS) is which are conducted to determine participant needs and goals. A nursing assessment must be performed by a nurse licensed by RIDOH in accordance with the regulations for Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs (216-RICR-40-05-3).

C. Functional Assessment - The functional assessment rates the participant's level of assistance required to complete each task, and the number of times the task is performed. If there is a condition or characteristic in addition to the disability, the participant may require the need for more time to complete a particular task. These conditions and/or characteristics do not apply to all ADL/IADL tasks; they only apply if the condition would have a direct impact on the performance of the task.

1. In addition to medical information and self-reporting, the assessor may observe or request that the participant demonstrate his/her ability to complete a task.

D. In addition to the nursing and functional assessments, staff will conduct an environmental assessment and a Universal Comprehensive Assessment Tool (UCAT) assessment as part of the eligibility determination and plan of care.

2.9.3 Budget Development

A. Personal Choice monthly budgets are based on the functional assessment of participant need for hands-on assistance or supervision with ADL's (such as bathing, toileting, dressing, grooming, transfers, mobility, skincare, and/or eating) and IADL's (such as communication, shopping, housework, meal preparation, and/or shopping), as described in § 2.9.2 of this Part.

B. The Service Advisement Agency will perform assessments to determine the individual's budget and Individual Service and Spending Plan (ISSP). In accordance with the service provider agreements, a budget is developed based on the amount and level of assistance required, frequency of the task, and presence of any secondary conditions that would require a need for more time to complete the task. There are six (6) levels of assistance for each activity as referenced in Attachment I.

B. In addition to medical information and self-reporting, the assessor may observe or request that the participant demonstrate his/her ability to complete a task.

C. The budget amount is determined by EOHHS and may be subject to change. The budget funds are set aside by Medicaid for the purchase of assistance to meet individual participant needs. The participant determines what services are required and the amount the participant is willing to pay for those services from their budget. Participants determine the hourly wage for PCA, which can range from minimum wage up to \$15.00 per hour. ~~It is based solely on tasks such as bathing, dressing, toileting, etc. and is determined based on the amount of assistance the individual needs to complete the task, and time allotted for each task.~~ The budget does not allow for companionship, watching, or general supervision of a participant. ~~Access to the budget is available to the participant by computer via the Consumer Directed Module (CDM) or upon request to the Service Advisement Agency.~~

D. Qualifications of the service advisement agency staff are as follows:

1. Service Advisor—Must possess either a bachelor's degree or an associate's degree in Human Services or any health-related field and possess the skills and experience gained through providing case management, independent living counseling or other community living services to people with disabilities or elders. The Service Advisor will assess for initial eligibility for the program, and reassess on an annual basis, assist in identifying and removing barriers to improve independence, assist in developing, implementing and monitoring Personal Choice services, provide training and assistance to participant or representative, and maintain contact via

telephone and face-to-face meetings.

2. ~~Nurse~~—Must possess a current Rhode Island Registered Nurse (RN) or Licensed Practical Nurse (LPN) license. The nurse will evaluate the participant's medical condition annually using the Personal Choice nursing assessment, provide educational opportunities to address issues raised during the medical assessment, and assist participants in identifying and accessing available community resources in the areas of wellness and health promotion and/or maintenance.

3. ~~Mobility Specialist~~—May be a licensed Physical or Occupational Therapist and/or a certified Assistive Technology Practitioner as certified by RESNA (Rehabilitation Engineering and Assistive Technology Society of North America). The mobility specialist will evaluate on an annual basis the participant's ability to function within their home and in the community and make recommendations on any home modifications or equipment recommended in the assessment. They will also provide training and education in the safe use of any equipment or modifications for both the participant and any caregivers identified.

2.6.4—Fiscal Agency Responsibilities

A. ~~Duties of the fiscal agency include, but are not limited to:~~

1. ~~Oversee budget spending by PCP Medicaid participant / representative to ensure compliance with the ISSP.~~

2. ~~Act as a conduit between employer (participant /representative) and EOHHS. The participant /representative shall sign all applicable forms allowing the fiscal agency to conduct business on behalf of the Medicaid-eligible participant.~~

3. ~~The fiscal agency shall not reimburse the participant /representative for any service provider who does not pass a criminal background check or abuse registry screening.~~

4. ~~Assist participant/representative in obtaining Worker's Compensation coverage for their employees.~~

5. ~~Perform all necessary payroll functions, including but not limited to processing payroll, payroll taxes (including quarterly and year end), W-4's, 1099's.~~

6. ~~Recoup from PCA's any wages paid for hours not worked, such as wages paid when participant was hospitalized.~~

2.6.5—Budget Development Process and Methodology

A. ~~Personal Choice monthly budgets are based upon an assessment of participant need for hands on assistance or supervision with ADL's (such as bathing, toileting, dressing, grooming, transfers, mobility, skincare, and/or eating) and IADL's (such as communication, shopping, housework, meal preparation, and/or shopping).~~

B. ~~The assessment of need rates the participant's level of assistance required to complete each task, and the number of times the task is performed. If there is a particular condition or characteristic in addition to the disability, the participant may require the need for more time to complete a particular task. These conditions and/or characteristics do not apply to all ADL/IADL tasks; they only~~

apply if the condition would have a direct impact on the performance of the task. ~~Information on the applicable conditions and/or characteristics can be located in the PCP Provider Service Manual and the Participant Guide, located on the Medicaid website, <http://www.eohhs.ri.gov/>—~~

1. Determine Monthly Budget Amount: Each Activity of Daily Living (ADL) and Instrumental Activity of Daily Living (IADL) has an amount of unit and/or functional time allowed to complete the task. The monthly figures for each ADL/IADL are added together to form a monthly budget. ~~The Personal Choice Program is a self-directed program, as such, worker's~~Worker's compensation insurance and administrative costs are deducted from the PCP participant's monthly budget.
 - a. Unit Time - the amount of time allowed to complete the task if the participant is unable to participate and requires total assistance with the task. Activity and time allotments, in minutes, are referenced in ~~§ 2.7 of this Part,~~ Attachment I.
 - b. Functional Time - the amount of time allowed to complete the task if the participant is unable to participate and requires total assistance with the task and certain conditions or characteristics are present.
 - (1) The functional characteristics for each ADL/IADL are listed in ~~§ 2.7 of this Part,~~ Attachment I.
2. EOHHS will implement a budget re-assessment for any budget which is decreased by five hundred dollars (~~\$~~500). This second level re-assessment will be conducted by an EOHHS nurse and social worker in the home of the ~~beneficiary~~consumer.
3. Written documentation of the assessment will be maintained by the service advisement agency, such as the functional, mobility and health assessments.
34. Additional information concerning participant conditions and characteristics related to certain tasks may be found in the Participant Manual and/or the Provider Manual, available upon request or on the Medicaid website (<http://www.eohhs.ri.gov/>).

C. The budget amount is determined by EOHHS and may be subject to change. The budget funds are set aside by Medicaid for the purchase of assistance to meet individual participant needs. The participant determines what services are required and the amount the participant is willing to pay for those services from their budget. Participants determine the hourly wage for PCA, which can range from minimum wage up to \$15.00 per hour. The budget does not allow for companionship, watching, or general supervision of a participant.

D. The service advisor will provide the participant/representative with a copy of the approved budget and the approved ISSP. Additional copies may be provided upon request.

E. The Service Advisory Agency will provide the Personal Choice fiscal intermediary with a copy of the approved budget.

2.6-69.4 Participant Directed Goods and Services-

A. Participants may also set aside a specified amount of their budget each month to purchase services, equipment and supplies not otherwise provided by Medicaid that address an identified need, are in the approved ISSP, and meet the following requirements:

1. Alternative funding sources are not available; and
2. The item or service would decrease the need for other Medicaid services; and/or
3. The item or service would promote inclusion in the community; and/or
4. The item or service would increase the individual's ability to perform ADLs/IADLs; and/or
5. The item or service would increase the person's safety in the home environment.

B. Limitations:

1. Some items or services that are medical in nature may be reimbursed with a health care practitioner's order.
2. Items must be necessary to ensure the health, welfare and safety of the participant, or must enable the participant to function with greater independence in the home or community, and to avoid institutionalization.
3. Items for entertainment purposes are not covered.
4. Items cannot duplicate equipment provided under Medicaid-funded primary and acute care or through other sources of funding, such as Medicare or private insurance.
5. Items purchased whose goal is to lessen the need for assistance from a caregiver will result in a redetermination of need for caregiver assistance.

C. Additional information for the participant can be found in Attachment I or in the PCP Participant Guide, located on the Medicaid website, <http://www.eohhs.ri.gov/>.

2.7 ATTACHMENT I

2.7.1 Six (6) Levels of Assistance: 9.5 EOHHS Responsibilities

A. EOHHS shall be responsible for the following activities:

1. Approve budgets and individual service and spending plans;
2. Authorization of participant-directed goods and services;
3. Provide Personal Choice participants with notice of budget amount;
4. Monitor and conduct quarterly audits of service advisement and fiscal intermediary agencies.

B. The EOHHS reviews and approves the assessment and individual service and spending plan (ISSP) for each PCP participant before services begin.

C. Any changes made to a PCP participant's ISSP must be forwarded to EOHHS for review and approval.

Independent	Participant is independent in completing the task safely
Set-Up	Participant requires brief supervision, cueing, reminder and/or set-up assistance to perform the task.
Minimum	Participant is actively involved in the activity, requires some hands-on assistance for completion, thoroughness or safety. Needs verbal or physical assistance with 25% of the task.
Moderate	Participant requires extensive hands-on assistance, but is able to assist in the process. Needs verbal or physical assistance with 50% of the task.
Extensive	Participant requires verbal or physical assistance with 75% of the task.
Total Assistance	Participant cannot participate or assist in the activity, and requires 100% assistance with the task.
Not Applicable	This task does not apply to this participant.

D. Once the ISSP is approved, EOHHS will notify the appropriate Service Advisement Agency who will inform the Fiscal Agency and participant that the ISSP will be implemented.

E. EOHHS is responsible for the review of reported critical incidents with the Service Advisement Agency to determine feasibility of the individual continuing participation in the Personal Choice Program.

F. If Medicaid fraud is either known or suspected, EOHHS shall refer the case to the appropriate authorities as outlined in the Medicaid Personal Choice Program Provider Manual (<http://www.eohhs.ri.gov/>).

2.7.2 Functional Characteristics for Each ADL / IADL:10 Individual Provider

2.10.1 Eligibility

A. Consumers who are either aged (age sixty-five (65) or over) or who have a disability and are at least eighteen (18) years old and are determined to have "high" or "highest" need for level of care and;

B. Individuals who have demonstrated the ability and competence to direct their own care or have a qualified designated representative to direct care, and want to either remain in their home or return to their home.

2.10.2 Assessments

A. Minimum assessment components will be specified by EOHHS and be maintained in both the Individual Provider Participant/Representative Manual and Provider Manual available through EOHHS or obtained on its website: www.eohhs.ri.gov.

B. Nursing Assessment - An assessment measuring Activities of Daily Living (ADLS) and Instrumental Activities of Daily Living (IADLS) is conducted to determine participant needs and goals.

C. Functional Assessment - The functional assessment rates the participant's level of assistance required to complete each task, and the number of times the task is performed. If there is a condition or characteristic in addition to the disability, the participant may require the need for more time to complete a particular task.
These conditions and/or characteristics do not apply to all ADL/IADL tasks; they only apply if the condition would have a direct impact on the performance of the task.

1. In addition to medical information and self-reporting, the assessor may observe or request that the participant demonstrate his/her ability to complete a task.

D. In addition to the nursing and functional assessments, staff will conduct an environmental assessment and a Universal Comprehensive Assessment Tool (UCAT) as part of the eligibility determination and plan of care.

ADL/IADL

Functional Characteristics

Bowel

Behavioral Issues, Limited ROM, Spasticity/Muscle Tone

Dressing

Behavioral Issues, Limited ROM, Spasticity/Muscle Tone

Eating

Behavioral Issues, Fine Motor Deficit, Spasticity/Muscle Tone

Grooming

Cognitive, Limited ROM, Spasticity/Muscle Tone

Mobility

Balance Problems, Decreased Endurance, Pain, Spasticity/Muscle Tone

Shower

Balance Problems, Behavioral Issues, Limited ROM,

ADL/IADL	Functional Characteristics
	Spasticity/Muscle Tone
Skin Care	Open Wound
Sponge Bath	Behavioral Issues, Limited ROM, Spasticity/Muscle Tone
Transfers	Balance Problem, Limited ROM, Spasticity/Muscle Tone
Tub Bath	Balance Problem, Behavioral Issues, Limited ROM, Spasticity/Muscle Tone
Urinary/Menses	Behavioral Issues, Limited ROM, Spasticity/Muscle Tone
Communications	No Functional Characteristics
Housework	Participant Lives Alone
Meal Preparation	No Functional Characteristics
Shopping	No Functional Characteristics

2.7.3 Activity and Time Allotments, in minutes:-

Activity	Unit Time	Functional Time
Sponge Bath	30	45
Shower	20	40
Tub Bath	40	45
Dressing	15	20
Eating	20	40

Activity	Unit Time	Functional-Time
Mobility-	10	10
Urinary/Menses-	10	15
Transfers-	5	10
Grooming-	8	8
Skin Care-	10	10
Bowel-	30	50
Meal Preparation-	25	25
House Work-	12.5	25
Communications-	15	15
Shopping-	60	60
Medications-	2	5
-		

2.7.4—ADL Multipliers:-

Level-of Assistance	Spounge-Bath	Shower	Tu b-Bath	Dressing	Eating	Mobility	Urinary-Menses	Transfers	Grooming	Sk in-Care	Be wet
Total Assist	1	1	1	1	1	1	1	1	1	1	1
Maximum Assist	.75	.75	.75	.75	.75	1	.75	1	.75	1	.75
Moderate Assist	.5	.5	.5	.5	.5	.75	.5	.75	.5	.75	.5
Minimum Assist	.25	.25	.25	.25	.25	.75	.25	.75	.25	.25	.25
Set-Up Assist	.15	.15	.15	.15	.15	.20	.15	.20	.15	.20	.15
Independent	0	0	0	0	0	0	0	0	0	0	0

2.7.5—IADL Multipliers:-

Level-of Assistance	Meal-Preparation	Housework	Communications	Shopping
Total Assist	1	1	1	1
Maximum Assist	1	1	1	1
Moderate Assist	.75	.75	.75	1

Level of Assistance	Meal Preparation	Housework	Communications	Shopping
Minimum Assistance	.5	.5	.5	1
Set Up Assistance	.25	.25	.25	1
Independent	0	0	0	0

2.10.3 Service Hours

- A. Individual Provider service hours are determined based on the functional assessment of participant need for hands-on assistance or supervision with ADL's (such as bathing, toileting, dressing, grooming, transfers, mobility, skincare, and/or eating) and IADL's (such as communication, shopping, housework, meal preparation, and/or shopping), as described in § 2.4 of this Part.
- B. The Service Advisement Agency will perform assessments to determine the individual's service hours and Individual Service Plan (ISP). In accordance with the service provider agreements, service hours are authorized based on the amount and level of assistance required, frequency of the task, and presence of any secondary conditions that would require a need for more time to complete the task.
1. EOHHS will implement a re-assessment for any service plan in which the number of hours is reduced or increased significantly with no corresponding documentation of a significant life event in the individual's assessment. This second level re-assessment will be conducted by an EOHHS nurse and social worker in the home of the consumer.
 2. Written documentation of the assessment and Individual Service Plan will be maintained by the Service Advisement Agency.
 3. Additional information concerning participant conditions and characteristics related to certain tasks may be found in the Participant Manual and/or the Provider Manual, available upon request or on the Medicaid website (<http://www.eohhs.ri.gov/>).
- C. The hours authorized in the service plan are determined by EOHHS and may be subject to change. Service hours do not allow for companionship, watching, or general supervision of a participant.

- D. The Service Advisor will provide the participant/representative with a copy of the approved budget and the approved ISP. Additional copies may be provided upon request.
- E. The Service Advisory Agency will provide the Individual Provider Fiscal Intermediary with a copy of the approved budget
- F. Once approved the consumer can utilize those hours for non-medical Personal Care and Homemaker services. There is no allowance for differential pay to the PCA for hours worked beyond 40 hours (where applicable) or on Saturdays, Sundays, Holidays, or off-hours.

2.10.4 EOHHS Responsibilities

- A. EOHHS shall be responsible for the following activities:
 1. Approve service hours and Individual Service Plans;
 2. Provide Individual Provider participants with notice of Individual Service Plan and authorized service hours;
 3. Monitor and conduct quarterly audits of Service Advisement and Fiscal Intermediary agencies.
- B. The EOHHS reviews and approves the assessment and Individual Service Plan for each IP participant before services begin.
- C. Any changes made to a participant's ISP must be forwarded to EOHHS for review and approval.
- D. Once the ISP is approved, EOHHS will notify the appropriate Service Advisement agency who will inform the Fiscal Agency and participant that the service plan will be implemented.
- E. EOHHS is responsible for establishing rates for PCA services. EOHHS will oversee PCA training modules and will establish terms and conditions of the workforce without infringing on rights of the consumer to hire, direct, supervise, or terminate.
- F. EOHHS is responsible for the review of reported critical incidents with the Advisement Agency to determine feasibility of continuing participation in the Individual Provider program.
- G. If Medicaid fraud is either known or suspected, EOHHS shall refer the case to the appropriate authorities as outlined in the Medicaid Individual Provider Manual (<http://www.eohhs.ri.gov/>).
- H. A Registry of qualified caregivers shall be posted by EOHHS from information validated by the Fiscal Intermediary. Listed on the registry are the PCAs who

have completed training requirements and are available to provide services. Details regarding gender, experience, additional certifications, languages spoken, town of origin, distance willing to travel, hours available to work, smoking habits, allergies, willingness to be called for emergency visits, and a free form self-description are listed on the registry (<http://www.eohhs.ri.gov/>).

1. Individuals working as PCAs are not required to join the registry.
2. Individuals who are trained by the consumer for all additional training beyond Mandatory Orientations -required training for all PCAs participating in the IP program-are not listed in the registry and cannot work for other consumers (with the exception of other consumers who also self-train). No accommodations are made to list provisional providers on State registries/website.
3. PCAs listed on the registry have undergone formal training and meet minimum training requirements in order to participate in the IP program.
4. PCAs may self-initiate entry into the registry. Information posted on the Registry is validated by the Fiscal Intermediary.
5. Consumers may use the registry to find and hire PCAs.
6. The frequency of updates to the registry is dependent on the availability of qualifying PCAs.
7. No consumer information is listed on the registry.