



RI EOHHS MEDICAID POLICY

Subject:	<i>Signature Requirement for Nursing Home Application/Renewal</i>		
Applicability:	Applicants for nursing home care; nursing home providers		
Issue Date:	Effective Date:	Transmittal #:	Supersedes #:
April 22, 2022	April 22, 2022	22-02	New

Purpose

The purpose of this policy is to establish guidelines for the signature requirement when a nursing home resident who applies for or renews Medicaid Long Term Services and Supports (LTSS) is unable to sign the required forms and is awaiting appointment of a guardian or limited guardian.

Background

All persons seeking Rhode Island Medicaid LTSS must apply for services through the DHS-2 Application for Assistance. The Medicaid LTSS application and annual renewal process is described in [210-RICR-50-00-4](#). The State determines the individual's financial and clinical eligibility upon application, which must be completed and signed by the applicant. The signature provides the applicant's consent to the eligibility determination, verification of information, and attestation as to the truthfulness of the information disclosed in the application.

Once an individual is determined to be eligible for Medicaid LTSS, the "eligibility date" is defined as the first day of the month in which the application is received. Medicaid can reimburse claims incurred up to three (3) months before this eligibility date (this is called retroactive coverage). If a nursing facility provides services for longer than three (3) months before the eligibility date, the services provided beyond that retroactive coverage period will not be reimbursed. Therefore, if the signature requirement cannot be met within three (3) months of when the nursing facility begins to provide services, the nursing facility will likely have some unreimbursed services.

Similarly, an individual must renew eligibility at least once per year to confirm that the financial and clinical eligibility requirements for Medicaid LTSS are still satisfied. In other words, an individual's eligibility for Medicaid LTSS is valid for twelve (12) months at a time. At least thirty (30) days before the annual renewal date, the State notifies the individual that they are required to submit information by a specified deadline in order to maintain coverage. If the beneficiary does not renew coverage, it is terminated. There is a signature requirement for the renewal process as well.

Individuals may designate someone to serve as an *authorized representative* to help or act on their behalf in the application/renewal process. In some cases, however, a beneficiary may be incapacitated and unable to sign the application/ renewal forms or to designate a representative. Currently, when an individual is unable to sign due to cognitive decline, the Department of Human Services (DHS) permits a representative to sign on the individual's behalf with the appropriate documentation for a health care power of attorney (per R.I. Gen. Laws [§ 23-4.10.](#)) or a guardian/temporary limited guardian for Medicaid application (per R.I. Gen. Laws [§ 33-15.](#)).

Providers have reported challenges obtaining the appropriate signature for incapacitated residents' applications within the three (3) month retroactive coverage period (for new applications) or within the

renewal period (for existing beneficiaries). Other states, such as [New York](#) and [Massachusetts](#), allow other parties to act as an authorized representative. In particular, New York authorizes a nursing facility to sign a Medicaid application on behalf of an individual either with proof of authorization to do so (guardianship, power of attorney, or other specified written authorization) or by attesting that the individual is incompetent or incapacitated.

Scope

This policy pertains to any individual:

- (1) currently residing in a nursing facility;
- (2) who applies or renews eligibility for Medicaid LTSS under [210-RICR-50-00-4](#); and
- (3) who lacks the capacity to sign the application or renewal forms.

The nursing facility must make reasonable efforts to locate any individuals with a health care power of attorney and, if unsuccessful, ensure that the process for seeking a guardian/limited guardian has been initiated. The policy only applies if the individual is a patient of the nursing facility.

Statement of Policy or Procedure

In certain circumstances, a nursing home representative may sign the required Medicaid LTSS application or renewal on behalf of an incapacitated and/or incompetent individual receiving services at the facility. This is generally only permitted if there is no appropriate power of attorney documentation and the guardian/limited guardian appointment process is underway. In order to sign, the nursing facility must complete the Nursing Home Authorized Representative Attestation Form included at the end of this document. The form includes an attestation that the nursing home or another party made reasonable efforts to locate an individual with power of attorney and these efforts were unsuccessful. The nursing facility must also attest that a petition for guardianship has been filed (by the nursing home or otherwise) on behalf of the nursing home resident. The petition may request appointment of the nursing facility as a guardian/limited guardian, but this is not required. The petition must include an assessment by a medical professional that the individual is unable to give informed consent. The nursing facility cannot act as an authorized representative once an individual with power of attorney or a guardian/limited guardian is appointed, unless the court appoints the nursing facility as a guardian for application purposes.

- **For initial application:** For new Medicaid LTSS applicants, the nursing facility may act as an authorized representative within sixty (60) days of the initial filing for guardianship, or fourteen (14) days before the end of the three (3) month retroactive coverage period, whichever occurs first. The authority to act as authorized representative expires when application forms are complete and accepted by DHS and an eligibility determination is made. If renewal comes due and a guardian has not been appointed, the nursing facility may act as an authorized representative with resubmission of the Attestation Form and proof that the appointment process is still underway, as provided below.
- **For renewal:** The nursing home may act as an authorized representative within fourteen (14) days of the deadline in the renewal notice. For all renewals, the nursing facility must submit the signed and notarized Attestation Form with proof of unsuccessful attempts to locate an individual with power of attorney and that appointment of a guardian/limited guardian is underway. The authority to act as authorized representative expires when renewal forms are complete and accepted by DHS and an eligibility determination is made, unless the court appoints the nursing facility as a guardian for application purposes. This process may repeat for subsequent renewals if necessary.

This policy shall not be construed to circumvent the requirements of R.I. Gen. Laws § 33-15 for the appointment of a guardian or limited guardian to advocate for an individual's best interests in the nursing

facility admission process. Rather, this policy only applies when the guardian appointment process is underway, but a guardian has not yet been appointed.

Business Process

When an application or renewal packet is submitted to DHS, documents are reviewed for completeness, including verifying signatures on all required forms. Any documentation that is not signed by a customer will require the necessary authorizations allowing an individual with health care power of attorney, a guardian/limited guardian, or a nursing home to sign on their behalf. Nursing homes are required to submit the Nursing Home Authorized Representative Attestation Form along with supporting documentation as required by the form. Applications and renewal packets that do not meet the above requirements will be considered incomplete. Incomplete applications will be returned, and submission date will not be considered as the date of eligibility. LTSS eligibility, including retroactive coverage, will be considered based on the receipt date of the complete submission. Incomplete renewal packets may result in a lapse in benefits.

Questions?

If you have any questions, please contact Emily Tumber via email at Emily.Tumber@ohhs.ri.gov.



NURSING HOME AUTHORIZED REPRESENTATIVE ATTESTATION FORM

*You must complete and submit this form if you are a **representative of a nursing facility signing Medicaid LTSS documentation on behalf of an individual who is unable to sign due to incompetence or incapacity**. If the individual is able to sign, they may designate a representative of the facility as an Authorized Representative without this supplemental form.*

SECTION 1. APPLICANT/MEMBER INFORMATION

Applicant's or Member's Full Legal Name: _____

Date of Birth (mm/dd/yyyy): ____ / ____ / _____

Last 4 Digits of Social Security Number: _____

SECTION 2. SIGNATORY INFORMATION

Name of Provider: _____

Provider Phone: (____) - _____ - _____

Provider Address: _____

Name of Employee Signing Application/Renewal Forms: _____

Title/Role in the Organization: _____

SECTION 3. AUTHORITY FOR SUBMISSION

If you are signing a Medicaid application or other required eligibility documentation on behalf of an individual who cannot sign due to incompetence or incapacity, you must provide evidence of your authority to do so.

Per RI Medicaid EOHHS Policy 22-02, unless the nursing facility has been formally appointed as a guardian/limited guardian, a representative of a nursing facility who signs on behalf of an individual must (1) attest that an individual with power of attorney cannot be located and (2) submit proof that a petition for guardianship/limited guardianship of the individual is pending. This petition must include an assessment that the individual is incompetent or incapacitated.

The attestation is in Section 4 of this form and must be completed by the individual who will act as Authorized Representative. Please also append proof that a petition for guardianship/limited guardianship is pending before a division of the Probate Court.

If you do not submit all required documentation, this form is considered incomplete, and you cannot act as an Authorized Representative.

made reasonable attempts to locate next of kin and none was identified. Explain:

identified an individual with health care power of attorney, _____, but this person has died. (name)

6. A petition for guardianship or limited guardianship has been filed on behalf of the individual identified in Section 1.
7. The petition for guardianship or limited guardianship indicates that less restrictive alternatives to guardianship have been explored and deemed inappropriate and includes an assessment by a medical professional that the individual identified in Section 1 is unable to give informed consent.
8. The petition for guardianship or limited guardianship on behalf of the individual identified in Section 1 has not been adjudicated.
9. I have appended a copy of the petition for guardianship or limited guardianship on behalf of the individual identified in Section 1 as described in Section 3.
10. I am aware that my authority to act as Authorized Representative is limited as specified in RI EOHHS Medicaid Policy 22-02 and that I may be required to resubmit this form in order to act as Authorized Representative the future.

Signature of Authorized Representative: _____

Printed Name: _____

Date (mm/dd/yyyy): ____ / ____ / ____

Name of Notary: _____

State: _____

County: _____

The above-named Authorized Representative completed and signed Section 4 of this document in my presence and swore or affirmed that the statements in this form are truthful and accurate.

Signature of Notary: _____

Seal: