



Changes to Category F as a Result of Article 13 of the FY 2020 Appropriations Act, House Bill 5151Aaa

<http://webserver.rilin.state.ri.us/BillText19/HouseText19/H5151Aaa.pdf>

1) What is Category F?

Category F refers to a State Supplemental Payment (SSP) level for Rhode Islanders living in a specific type of residential care setting offering enhanced and/or specialized LTSS such as dementia and behavioral health care, access to limited skilled nursing, and/or more intensive personal care. The Category F SSP (State Supplemental Payment) level is currently available to Medicaid LTSS beneficiaries with limited income who choose to live in a licensed Assisted Living Residence (ALR) which has been certified for Category F by the EOHHS as a result of their capacity and licensure authority to provide these types of services.

2) What was the purpose of the FY 2020 Category F budget and statutory changes?

As a result of the State eliminating the Rhody Health Options (RHO) Unity program, the law authorizing Category F for enhanced care was amended in 2019 to make Category F available to Medicaid LTSS beneficiaries in fee-for-service. EOHHS would assume responsibility for certifying ALRs for Category F at that time. The original certification standards have been amended to reflect this change in the certification process. The purpose of the SFY budget change was to ensure that there was adequate funding to cover Medicaid LTSS beneficiaries in FFS who are receiving the enhanced/specialized services that a Category F certified ALR provides.

3) Given the budget change, what new responsibilities must the State take on?

The EOHHS Office of Community Programs (OCP) will assume the responsibility for certifying ALRs for Category F and communicating with SSA. The Office of Healthy Aging (OHA) case management agencies (CMAs) have the added responsibility for screening Medicaid LTSS beneficiaries to determine whether placement in a Category F certified ALR is necessary and appropriate given the scope of their need for enhanced/specialized services and the capacity of the ALR to provide them. DHS will continue to be responsible for maintaining the fiscal accounting for this program.

4) What is Category D?

Category D was originally designed for low income seniors and adults with disabilities who needed supportive services and housing. There is a personal-needs allowance (PNA) of \$55.00. Participants access Community Medicaid (non LTSS) through SSI eligibility. A number of low-income individuals under age 65 who have chronic and disabling physical and/or behavioral health conditions and rely on this public subsidy to cover all or some portion of their monthly living costs. A few (4) ALR's accept the net Cat D payment to cover assisted living services in full.

5) What is the difference between Category F and Category D?

In the 1980's a level of SSP called Category D was implemented to supplement a beneficiary's income to be able to pay for non-medical expenses (room and board) in ALRs and other residential care settings. Medicaid only pays for medical costs. In this respect, the Category D living arrangement applies to licensed ALRs more generally and as part of a more broadly defined list of residential care settings (see definition in RIGL §40-6-27). Both non-LTSS and LTSS eligible Medicaid beneficiaries may qualify for Category D.

The payment level for Category D is up to \$332 a month whereas the payment level for Category F is up to \$797. The State established the higher payment for Category F because residential care settings like ALRs that have the capacity and authority to provide enhanced/specialized services have higher ancillary costs associated with maintaining and training staff, regulatory compliance, physical environment, security, and other non- medical arrangements; necessary to ensure there is adequate capacity to deliver them. These costs exceed the Medicaid established allowance for room and board. The goals of the higher level of payment for Category F are twofold: give low-income Medicaid LTSS beneficiaries the funds they need to pay the room and board costs and encourage more ALRs with the authority and capacity to provide enhanced/specialized services with a financial incentive to participate in the Medicaid LTSS program. An ALR certified for Category F may accept both Category D and Category F Medicaid LTSS beneficiaries. The ALR's may also accept non- LTSS Medicaid beneficiaries receiving Category D.

An ALR certified for Category F may admit both Category D and Category F Medicaid LTSS beneficiaries. Room and Board charges must be in accordance with the federal benefit rate cap for each, as explained below. The ALR's may also accept non- LTSS Medicaid beneficiaries receiving Category D.

There is a separate \$206 monthly subsidy provided to a licensed ALR for non-LTSS Medicaid beneficiaries who are eligible for and receiving Category D level SSP. Under the State law authorizing the subsidy (RIGL § 40-6-27.2), only licensed ALRs participating under the auspices of RIGL § 42-66.8 are eligible to claim the \$206 per person payment for Medicaid LTSS beneficiaries receiving Category D. Aside from this statutory exception, ALRs are not eligible to claim the \$206 subsidy for any Medicaid LTSS beneficiaries receiving either Category D or F SSP monthly payments.

6) What does it take to become a Category F certified provider?

There is an important distinction worth noting between a Medicaid certified LTSS ALR provider and Category F certified ALR that explains the role of SSP more clearly.

Medicaid certified LTSS provider - In the simplest terms, any licensed ALR that wants to participate in the Medicaid program -- admit and care for Medicaid LTSS beneficiaries and receive reimbursement -- must meet the requirements to become a Medicaid certified LTSS provider. All ALRs that are Medicaid certified LTSS providers in fee-for-service are paid the same flat daily rate, without regard to the scope or intensity of the services, the living environment, or the needs of the Medicaid LTSS beneficiaries they serve. Currently, that rate is \$69 per day.

To qualify for Category F certification, an ALR must be: (1) a Medicaid certified LTSS provider; and (2) meet the Category F certification requirements related to the capacity and authority to provide enhanced and/or specialized services. As indicated in the Table below:

Medicaid Certification Status	ALR Certification Status, SSP Beneficiaries and Medicaid Reimbursement			
	Qualifies to receive Medicaid LTSS Daily Rate	May Accept Category D SSP Recipients	May Accept Category F SSP recipients	Qualifies for Special State Subsidy of \$206
ALR not Certified for Medicaid LTSS (SSI-only)	Not eligible	Yes. Only non-LTSS Category D	Not eligible for Category F certification and Category F beneficiaries	Yes. May claim \$206 monthly subsidy for each non-LTSS Category D recipient
Medicaid certified LTSS Provider	Yes	Yes. May accept all Medicaid LTSS and non-LTSS beneficiaries receiving Category D	No	Yes. Participating in the program under RIGL §40-66.8. Other AL providers may only claim subsidy for non-LTSS Category D beneficiaries

Medicaid certified LTSS Provider also Certified for Category F	Yes.	Yes. May accept all Medicaid LTSS and non-LTSS beneficiaries receiving Category D	Yes	Not eligible to claim for any Category F beneficiaries
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1. An Assisted Living Residence (ALR) seeking certification to provide Medicaid funded Assisted Living Services must apply using the *Assisted Living Residence Questionnaire*.
2. Application for certification at each service capacity (basic and enhanced) is considered separately even when made by the same licensed ALR.
3. ALRs will have six months from implementation of new process to become certified.
4. The *Assisted Living Residence Questionnaire* should be completed by a representative of the requesting ALR and submitted to the OHHS Office of Community Programs at ocp@ohhs.ri.gov
5. Recertification shall occur every three years and be conducted by staff at OHHS.
6. In determining whether to grant certification, the following are taken into consideration:
The ALR is licensed by the Department of Health (DOH) in compliance with the following conditions and a Medicaid provider in good standing with the State of Rhode Island:
 1. Residence must attain the following levels of licensure as applicable:
 - a. Fire code classification of F1 licensure specified at 216-RICR-40-10-2, section 2.6.2(C) for the provision of limited health services and /or Alzheimer Dementia Special Care Unit 216-RICR-40-10-2 section 2.5.1 as part of the enhanced level of services a provision of specialized level services.
 - b. A minimum of fire code classification of F2 licensure specified in 216-RICR-40-10-2 section 2.4.2(A 1) for provision of basic or enhanced level of services that do not include limited health services.
 - c. Medication classification of M1 licensure specified at, 216-RICR-40-10-2 section 2.4.2 (a) pertaining to the capacity to serve more than one beneficiary who requires central storage of and/or administration of medications.
 - d. Limited health care services licensure, as defined within 216-RICR-40-10-2 section 2.4 and 2.6, if seeking the ability to provide these services as part of the enhanced and/or specialized services.
 - e. Dementia care licensure, as defined within 216-RICR-40-10-2 section 2.5, if seeking certification to provide specialized services
 2. Residence must maintain twenty-four (24) hour on-site staff to meet scheduled or unpredictable needs of residents in a way that promotes maximum dignity and independence, provide supervision and safety, at all times.
 3. Residence must have a central dining room, living room or parlor, and common activity center(s) which may also serve as a living or dining room.
 4. Residence must provide a placement which is appropriate to a person's needs and preferences and meet the licensure requirements of the ALR (216-RICR-40-10-2 section 2.4.16 B)
 5. Residence must employ or contact with a licensed registered nurse or a qualified licensed practical nurse to monitor each Medicaid funded resident's person- centered service plan every thirty (30) days. The person- centered service plan must be developed with the resident and in cooperation with the Office of Healthy Aging (OHA) case manager. The service plan should reflect whether a resident is at a basic or enhanced level of need.
 6. Residence must utilize certified nursing assistants to perform appropriate hands on personal care as specified in the Resident's service plan. Hours of the CNA must be adequate to meet the resident's needs as detailed in the person-centered plan service plan.
 7. Residence must conduct a minimum of two hours of orientation with each new employee, (DOH ALR regulations 2.4.12) in addition to training required for a specific job classification in the ALR including those staff members (CNA, Housekeeping, Nurse, etc.) assigned to have regular contact with Medicaid member.
 - a. Documentation that the orientation and specialized training took place must be placed in the personnel files at the Residence.
 - b. Ongoing In-Service Training shall be provided to all staff on an annual basis.

- c. Documentation that this training was completed shall be placed in the personnel files of all employees.
 - d. Residence will make available staff to meet every six (6) months, or as necessary, with the case manager responsible for the Resident' person centered service plan.
 - e. Residence will make available for review all records pertaining to Medicaid residents to the staff of OHA/DHS/OHHS.
8. Residence must complete the Assisted Living Enhanced Care Referral Form (attachment 2) conducted by the designated agent at OHA to review for compliance with these Certification standards.

7) How is a client determined eligible for Category F?

To be eligible for Medicaid LTSS, a person must have at least a high level of functional/clinical need for long-term care. To receive Category F, a person must be eligible for Medicaid LTSS, have income at or below the federal benefit rate, and require the specialized/enhanced services a Category F certified ALR has the capacity and authority to provide. The OHA case management agencies (CMAs) that conduct assessments of all applicants for Medicaid LTSS in assisted living also screen to determine whether ALR specialized/enhanced services are required to be a part of the beneficiary's service plan once eligibility is approved. If the services are available, the Office of Community Programs (OCP) of EOHHS reviews the request for Category F and, upon approval, notifies the Social Security Administration (SSA) regional office. SSA determines income eligibility for SSP and, if approved, authorizes and makes the SSP monthly payment to the beneficiary.

8) What happens if the Medicaid LTSS beneficiary seeking Category F does not have the required level of need for specialized/enhanced services?

Eligibility for SSP – which again is a cash assistance program – has a separate determination process from Medicaid that uses different income standards, screening criteria, and living arrangement requirements, all of which are set in State law. Although denial of SSP at the Category D or F level may effectively prevent a Medicaid LTSS beneficiary from obtaining services in an ALR or an ALR of his or her choice due to lack of resources, Medicaid LTSS eligibility status is not affected by whether a beneficiary receives Category D or F.

However, any beneficiary who believes they require enhanced/specialized services has the right to make this known in the service planning process with the CMAs. If the individual does not meet an enhanced level of care, a letter will be sent to the individual explaining their appeal rights.

DHS administers the SSP program in accordance with State law. SSP can be denied for the failure to meet any of the eligibility factors required for approval established in law or related agency rules/regulations related to income, service needs, and living arrangement. As a practical matter, denial of Category F may be appealed if the action was based on any of these factors. If a person does not have the level of need for enhanced or specialized services provided by an ALR certified for Category F, he or she should qualify for the Category D SSP of \$332 per month as long as the ALR is a Medicaid certified provider. A Medicaid LTSS beneficiary who qualifies for Category D but not F should not be subject to discharge if already a resident. As indicated earlier, A Medicaid certified ALRs must agree to accept the federal benefit rate associated with an SSP living arrangement for room and board, less the required personal need allowance. Appeals related to a denial of Category F based on income should be handled in accordance with DHS/SSA established policies and procedures.

9) How did an ALR become certified as a Category F provider prior to the change in legislation?

Since this provision only impacted Medicaid recipients enrolled in managed care, NHPRI was responsible for certifying ALRs. Much of what the ALR provided to NHPRI was self-attestation.

10) What do those previously certified Category F ALRs need to do so that they may keep their Category F certification?

ALRs previously certified by NHPRI will be sent a letter from EOHHS requesting that they complete an *Assisted Living Residence Questionnaire* within 45 days of the date of the letter. A copy of the Category F Certification Standards will be enclosed with the letters. Assuming the ALR meets the criteria outlined in the standards, the ALR will be approved for a three-year period. Applications will be reviewed jointly by the Medicaid OCP staff as well as

the OHA staff (or their designated agencies). The State will send written confirmation of approval within 90 days of receiving the Questionnaire. There are 28 Medicaid certified LTSS ALR providers that are currently certified as Category F. Although we anticipate that currently certified providers will be approved under this new process, if that were not to happen, the State will work with the ALR and the client to determine available options.

11) What is the new certification process for ALRs not previously certified by NHPRI?

ALRs newly seeking certification for Category F will be required to complete the *Assisted Living Residence Questionnaire* and return to the address indicated on the form. The certification standards have not changed appreciably. The principal difference will be the scope of the State's review. Assuming the ALR meets the criteria outlined in the standards, the ALR will be approved for a three-year period. Applications will be reviewed jointly by the Medicaid OCP staff as well as the OHA staff (or their designated agencies). The ALRs will receive written confirmation of the decision. Details are described in Certification Standards.

12) Is there a renewal process for Category F ALRs?

Yes, Category F ALRs will be reassessed every three years.

13) What will the Category F certification process be for newly applying clients after implementation of the budget changes?

- If the Medicaid LTSS beneficiary or applicant currently resides in a Category F certified ALR, the certified Category F ALR will send the Enhanced Care Referral Form to the OHA case manager. A Medicaid applicant or beneficiary who is not in an ALR, may contact any LTSS agency specialist or an OHA case manager to begin the process.
- The referral will trigger the OHA case manager to schedule a visit with the resident and the ALR to determine the need for enhanced care.
- The OHA case manager shall meet with the client and complete the Category F Enhanced Care Assessment and the Category F form and submit to the OCP for review.
- The OCP will review the request for completeness and need for enhanced care. If the assessment or Category F Form is submitted incomplete the form will be returned with requested information. Applications that are incomplete will be held and not submitted to SSA until needed information is received.
- If determined enhanced care is needed, OCP submits Category F assessments to the regional SSA office.
- OCP maintains receipt of fax confirmation and approved assessments in file for 1 year.
- The SSA office will outreach to the individual requesting the Category F for a telephone interview.
- If resident moves out the ALR, the ALR is responsible to inform SSA of discharge of resident, so eligibility for Category F can be suspended.
- If resident moves to a non-assisted living setting or a non-Category F certified ALR the OHA case manager must notify OCP.
- OCP will notify SSA of the change in residence to stop payment.
- Category F status is reviewed at annual assessment that is conducted by the OHA case manager.

14) What changes will currently approved Category F clients experience based on the legislative changes?

Current Category F eligible individuals should experience no change to their services assuming the ALR in which they reside is approved as a Category F provider under the new rules. Going forward, all Category F eligible clients will be reassessed annually.