

Personal Care Services and Community First Choice Personal Care Services Provider Conditions of Participation

Personal Care Services may be authorized for a Medicaid recipient who experiences functional limitations, resulting from a physical condition, that cause the recipient to be unable to perform activities of daily living (ADLs), instrumental activities of daily living (IADLs), and other activities covered under 7 AAC 125 Personal Care Services and 7 AAC 127 Community First Choice. Personal Care Services authorized under 7 AAC 125 or 7 AAC 127 may be provided in the recipient's residence, at the recipient's workplace if necessary to prevent job loss, and at other locations specified in regulations.

Following an assessment to determine the level of assistance needed to enable a recipient to perform covered activities, Senior and Disabilities Services (SDS) prepares a service level authorization specifying the activities for which physical assistance may be provided by personal care assistants. Some activities may be performed entirely by a personal care assistant for a recipient who is completely dependent on another person for completion of the task.

Provider agencies certified by SDS to offer personal care services and Community First Choice personal care services may provide both agency-based and consumer-directed programs. Agencies are responsible for hiring, training, scheduling, and supervising personal care assistants in agency-based programs. In consumer-directed programs, agencies have administrative responsibilities regarding the personal care assistants that are chosen by the recipients. The recipient is responsible for training, scheduling, and supervising the personal care assistant in a consumer-directed program.

The provider that chooses to offer personal care services must be certified as a provider of Personal Care Services under 7 AAC 125.060 or as a provider of Community First Choice personal care services under 7 AAC 127.050, and operate in compliance with the following standards.

I. Program operations.

A. Certification requirements.

1. The provider must demonstrate readiness to provide services and comprehension of applicable Medicaid regulations, Personal Care Services regulations, Community First Choice regulations, and these Conditions of Participation, through documents describing provider operations.
2. The provider must submit in a format provided by Senior and Disabilities Services (SDS)
 - a. a complete application for certification with all required information and documentation; or
 - b. a complete application to renew certification with all required information and documentation submitted not later than 60 days before the expiration date of the current certification period, in accordance with 7 AAC 125.060(c); and
 - c. if requesting an exception under 7 AAC 130.220(j), a complete application to provide care coordination under 7 AAC 130.240, personal care services under 7 AAC 125, and Community First Choice services under 7 AAC 127.
3. The provider must prepare in written form and implement the following policies and procedures and, when requested, submit the written policies and procedures to SDS within the required timeframe:
 - a. admissions to provider services;
 - b. assistance with self-administration of medication;
 - c. background checks;
 - d. backup plans for personal care assistants;
 - e. complaint management;
 - f. confidentiality of protected health information, including a Notice of Privacy Practices;
 - g. conflicts of interest;
 - h. cooperation with CFC care coordinators regarding support plans and amendments;
 - i. critical incident reporting;
 - j. emergency response;
 - k. evaluation of employees;
 - l. financial accountability;

- m. quality improvement;
 - n. restrictive interventions;
 - o. termination and transfer of provider services; and
 - p. training of employees.
4. In addition to the required application forms, the provider must submit to SDS within the required timeframe the following documents:
- a. State of Alaska business license;
 - b. Certificate of Insurance or similar documentation of insurance coverage, as required under section C.1.
 - c. personnel information, including
 - i. organization chart;
 - ii. personnel lists; and
 - d. a quality improvement report for an application to renew certification.
5. The provider must implement and abide by all policies and procedures that were submitted for the purposes of gaining certification.
6. The provider must grant to SDS, for certification and oversight purposes, access to all service locations and to locations where provider records are stored.

B. Operations requirements.

1. The provider must
- a. utilize the SDS secure electronic interface for submission of confidential and protected health information;
 - b. maintain records required under 7 AAC 105.230, 7 AAC 125.120, and 7 AAC 127.060 in English and in a form that is legible and understandable to a reviewer;
 - c. comply with the criminal history checks requirements of 7 AAC 10.900 – 7 AAC 10.990;
 - d. comply with all regulatory training requirements;
 - e. when required by the department, implement a corrective action plan approved by the department under 7 AAC 125.080(c) or 7 AAC 127.055(b); and
 - f. practice open communications and cooperate with other providers of services.
2. The provider must employ a program administrator who is responsible and accountable for the day-to-day management of the personal care services program, including
- a. orientation, training, and supervision of personal care assistants;
 - b. implementation of policies and procedures;
 - c. intake processing and evaluation of new admissions to services;
 - d. review of services to
 - i. assure services in the amount, duration and scope specified in the recipient’s service level authorization are provided;
 - ii. evaluate whether personal care services provide the physical assistance needed by the recipient to perform ADLs, IADLs, and other covered activities specified in the service level authorization; and
 - iii. evaluate the quality of care provided by individual personal care assistants;
 - e. if the recipient is also a home and community-based waiver services recipient, coordinate services with the recipient’s care coordinator and other service providers;
 - f. submission of required reports to SDS.
3. An individual newly hired as program administrator for an existing personal care services program must attend the personal care services agency training course provided by the department not later than three months after the date of hire by the personal care services agency.
4. An individual may serve as program administrator for more than one location if
- a. necessitated by the location of the agency offices; and
 - b. given the size of the recipient population served and the number of personnel supervised by that individual, the program administrator is capable of being actively engaged in the management of services at each location.

5. If the provider agency has been granted an exception under 7 AAC 130.220(j), an individual may not supervise both personal care attendants and care coordinators.
6. The provider that operates an agency-based personal care services program must retain a supervising registered nurse to carry out the duties specified in 7 AAC 125.170 for an agency-based Personal Care Services program and 7 AAC 127.135 for an agency-based Community First Choice Personal Care Services program.
7. No individual may be associated with a personal care services agency or Community First Choice service provider as owner, executive director, board member, authorized agent, or employee, or be involved in the provision of services to recipients if that individual
 - a. has been convicted of Medicaid fraud;
 - b. has been sanctioned under Medicaid regulations, or has been suspended or terminated from the Medicaid program, because of program abuse or abuse of a recipient; or
 - c. has had a valid criminal history check or variance revoked under 7 AAC 10.945.
8. The provider may not allow an employee, volunteer, or contractor to provide any services to recipients or to have access to protected health information until the provider has
 - a. notification of the employee's, volunteer's, or contractor's valid criminal history check, or of a variance or reconsideration, in accordance with 7 AAC 10.900 – 7 AAC 10.990; and
 - b. confirmation that the individual's name does not appear on either of the following lists:
 - i. *Alaska Medical Assistance Excluded Provider List*; and
 - ii. *List of Excluded Individuals and Entities (LEIE)* maintained by the U.S. Department of Health and Human Services, Office of Inspector General.
9. The provider must comply with the electronic visit verification (EVV) regulations under 7 AAC 125.070 and 7 AAC 127.053.
10. The provider must report to SDS the name of the electronic visit verification system vendor the provider uses. The provider must report the vendor name by sending an e-mail to DHSSEVV@alaska.gov on same day as the provider submits the application for provider certification.

C. Financial accountability.

1. The provider must maintain insurance that
 - a. includes coverage for commercial general liability, commercial automobile liability, and workers' compensation, as is appropriate to the services the provider is certified to offer recipients, in the following amounts:
 - i. *Workers' Compensation Insurance*: The provider shall provide and maintain, for all employees engaged in work, coverage as required by AS 23.30.045, and, where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.
 - ii. *Commercial General Liability Insurance*: covering all business premises and operations used by the provider in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.
 - iii. *Commercial Automobile Liability Insurance*: covering all vehicles used by the provider in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim; and
 - b. names Senior and Disabilities Services (SDS), Provider Certification and Compliance Unit, 1835 Bragaw Street, Suite 350, Anchorage, AK 99508-3487, as a certificate holder for that insurance; a copy of the Certificate of Insurance or similar document showing insurance coverage must be submitted with its application for certification or application to renew certification.
2. The provider may not charge fees for recipient services at a rate higher than those charged to private payclients for comparable services.
3. The provider must
 - a. maintain financial records to show the provider's capacity, at all times, to meet at least three months of operating expenses, including funds to
 - i. pay employee salaries and employee-related tax obligations timely;

- ii. maintain current commercial general liability, commercial automobile liability, and worker's compensation insurance;
 - iii. maintain operations in a physical office space; and
 - iv. ensure service delivery to all recipients served by the provider;
 - b. implement a financial system, based on generally accepted accounting principles, that ensures claims for payment are accurate;
 - c. maintain, with 7 AAC 105.230, 7 AAC 125.070, 7 AAC 125.120, 7 AAC 127.053 and 7 AAC 127.060, records that support claims for services;
 - d. cooperate with all required audits;
 - e. report to the Medicaid fiscal agent, and void or adjust, amounts identified as overpayments; and
 - f. cooperate with investigation and remediation activities.
- 4. The provider may not submit a claim for reimbursement
 - a. until services have been rendered;
 - b. for services rendered by a personal care assistant who does not have documentation of a current, valid criminal history check or variance; or
 - c. for services that are not specified on the recipient's service level authorization or documented in accordance with 7 AAC 105.230, 7 AAC 125.070, 7 AAC 125.120, 7 AAC 127.053 and 7 AAC 127.160.
- 5. The provider must report suspected Medicaid fraud, abuse, or waste, or suspected financial exploitation of a recipient, to the Medicaid Fraud Control Unit by calling 1-907-269-6279, by sending a message to fax number 1-907-269-6202 or by submitting a [Medicaid Fraud/Elder Abuse Complaint Form](#).

D. Quality management.

- 1. Complaint management process.
 - a. The provider must develop and implement a protocol for handling and resolving written and oral complaints about services or personnel.
 - b. In addition to addressing complaints as they arise, the provider must analyze the complaints each calendar quarter to determine whether issues raised represent single incidents or a pattern and take appropriate action to resolve issues brought to light by the quarterly analysis.
- 2. Quality improvement process.
 - a. The provider must engage in monitoring and data collection activities related to the delivery of services and recipient satisfaction with the services, analyze findings, and identify problems and opportunities for improvement.
 - b. The provider must implement a process to remedy problems, whether the issues relate to a single individual or to systemic program operations.
 - c. The provider must utilize its findings from data collection and analysis activities to engage in actions (e.g., policy development, management changes, staff training, or other system level interventions) that lead to continuous improvements in its delivery of services.
- 3. Self-assessment.
 - a. The provider must conduct a self-assessment of its quality improvement process annually, at a minimum, for each year of its certification period. The provider will use the self-assessment findings to develop the quality improvement report.
 - b. The process must include evaluation of the findings from, and corrective actions taken, with regard to
 - i. the complaint management process
 - ii. critical incident reports, including reports of harm;
 - iii. analyses of medication errors;
 - iv. analyses of the use of restrictive interventions;
 - v. consumer satisfaction surveys; and
 - vi. internal reviews of services rendered to determine that they were provided in accordance with the recipient's service level authorizations and met the recipient's needs.

4. Quality improvement report.
 - a. The provider must submit with its application to renew certification a complete quality improvement report, in a format provided by the department, based on the self-assessment. A complete quality improvement report includes:
 - i. a summary of the data collection activities;
 - ii. the findings;
 - iii. the corrective actions taken; and
 - iv. the resulting program improvements.
 - b. A complete quality improvement report will also include the certification period covered (i.e., certification period start and end dates) and the address/location.
 - c. The provider must be able to support the quality improvement report with original data and provide that data to SDS within the required timeframe, if requested.

E. Reporting changes in provider status.

1. The provider must report the following changes in provider status in writing to the SDS unit responsible for provider certification within the timeframe specified:
 - a. one business day of
 - i. an unplanned change of program administrator; or
 - ii. learning that an agency owner or administrator has been charged with or convicted of a criminal offense;
 - b. ten days prior to a change of the provider’s mailing address, email address, telephone number, or fax number; or
 - c. thirty days prior to a planned change of program administrator; and
 - d. sixty days prior to
 - i. a change of agency name;
 - ii. a change in physical location;
 - iii. a change in the form of organization of its business;
 - iv. a change of ownership; or
 - v. an agency sale or closure.
2. The provider must report all EVV vendor systems changes by e-mail to the SDS unit responsible for EVV systems. Providers must send the e-mail to DHSSEVV@alaska.gov within the timeframe specified:
 - a. one business day of an unplanned change to the EVV vendor system; or
 - b. thirty days prior to a planned change of EVV vendor system.

II. Program administration.

A. Personnel.

1. The provider must ensure that the employment and education history offered by a potential employee is verified and resulted in the acquisition of the knowledge base and skills required for the position.
2. Program administrator.
 - a. The provider must verify that any individual hired for a program administrator position meets the qualifications specified.
 - b. The program administrator must be at least 21 years of age and qualified through experience and education in a human services field or setting as follows:
 - i. Required experience: one year of full-time or equivalent part-time experience providing services to individuals in a human services setting, in a position with responsibility for planning, development, and management or operation of programs involving service delivery, fiscal management, needs assessment, program evaluation, or similar tasks.
 - ii. Required education and additional experience or alternatives to formal education:
 - (A) Bachelor of Arts or Bachelor of Science degree from an accredited college or university in social work, psychology, rehabilitation, nursing, developmental disabilities, or a closely related human services field; or

- (B) Associate of Arts degree from an accredited college or university in psychology, rehabilitation, nursing, developmental disabilities, or a closely related human services field, and two years of full-time or equivalent part-time experience working with human services recipients; or
 - (C) four years of full-time or equivalent part-time experience working with human services recipients in social work, psychology, rehabilitation, nursing, developmental disabilities, or a closely related human services field or setting; or
 - (D) certification as a rural community health aide or practitioner, and one year of full-time or equivalent part-time experience working with human services recipients.
 - c. An individual that does not have documentation of successful completion of training equivalent to that specified in 7 AAC 125.160 and 7 AAC 127.135 must complete the required equivalent training within three months of hire for the position of program administrator.
 - d. The provider may accept an applicant whose education was completed in a country other than the United States if the applicant can show that the applicant's foreign education is comparable to that received in an accredited educational institution in the United States.
 - i. The provider may accept a copy of a State of Alaska license issued under AS 08 as showing an applicant's foreign education is comparable to education in the United States.
 - ii. For applicants not licensed under AS 08, the provider must inform the applicant that the applicant is responsible for providing
 - (A) a foreign educational credentials evaluation report, from an evaluation service approved by the National Association of Credential Evaluation Services, that includes, at a minimum, a description of each course and semester or quarter hour credits earned for that course, and a statement of degree equivalency to education in the United States; and
 - (B) certified English translations of any document submitted as part of the application, if the original documents are not in English.
 - iii. The provider must keep documents showing a program administrator's foreign education comparability to that of the United States on file and make them available to SDS upon request.
 - e. The provider may use a term other than program administrator for this position (e.g., program director, program manager, or program supervisor), but the individual filling the position must meet the requirements for program administrator.
3. Supervising Registered Nurse.
The provider that operates an agency-based personal care services program or a Community First Choice personal care service agency-based program must verify that the individual retained as the agency's supervising registered nurse
- a. is licensed as a registered nurse under AS 08 or qualifies to practice under 7 AAC 105.200(c);
 - b. is at least 21 years of age;
 - c. is qualified through the following experience:
 - i. at least one year of full-time or equivalent part-time experience providing services to individuals in a human services delivery setting; and
 - ii. one year (which may be concurrent) of full-time or equivalent part-time experience as a supervisor of staff who worked full-time or equivalent part-time in a human services setting, in a position with responsibility for planning, development, and management or operation of programs involving service delivery, needs assessment, program evaluation, or similar tasks.
4. Personal care assistants.
- a. The provider must assure that only individuals who meet the requirements of 7 AAC 125.090 and 7 AAC 127.105 are associated with the agency as personal care assistants.
 - b. The provider must implement a process to evaluate whether a personal care assistant provides quality care that meets the continuing needs of the recipient and to identify skills that need further development:
 - i. For personal care assistants working in a consumer-directed program, the provider must review the recipient's satisfaction with the performance of the personal care assistants as provided in the process implemented under (b), but not less than every six months in connection with the

- ii. review of the recipient's services under 7 AAC 125.130(a)(1) or 7 AAC 127.130; or
- ii. For personal care assistants working in an agency-based program, the provider must evaluate performance as provided in the process implemented under (b), but not less than every six months in connection with review of the recipient's services under 7 AAC 125.170(a)(2) and 7 AAC 127.135(a)(2).

B. Training.

1. CPR and first aid training.

The provider must have on file, for each personal care assistant, documentation showing successful completion of cardiopulmonary resuscitation (CPR) training and first aid training, that meets the standards of the American Heart Association or the American Red Cross, within the previous two years.

2. Orientation and training.

a. The provider that operates an agency-based personal care services or Community First Choice personal care services program, for all personal care assistants must provide, and have on file, documentation showing

- i. orientation to the agency and its relationship to the department;
- ii. training necessary to render services to recipients;
- iii. coaching and feedback regarding performance of services, as needed; and
- iv. all information necessary to perform the services for which the individual is responsible, including pertinent health information and contact information for assistance and emergencies.

b. The provider that operates a consumer-directed personal care services program or Community First Choice personal care services program must provide the following for all personal care assistants:

- i. orientation to the agency and its relationship to SDS; and
- ii. information regarding
 - (A) responsibilities of the recipient for training the personal care assistant and management of the recipient's personal care services program; and
 - (B) responsibilities of the personal care assistant in a consumer-directed program.

3. Critical incident reporting training.

a. The provider must have on file, for each personal care assistant, documentation of attendance and completion of, at least every two years, training on how to report critical incidents to SDS.

b. The provider may

- i. arrange for staff to attend SDS critical incident reporting training; or
- ii. appoint staff who have attended the SDS training to train additional staff.

c. At a minimum, the following agency employees must complete every two years, critical incident reporting training by attending and completing the course offered by SDS:

- i. the program administrator; and
- ii. the individuals who supervise personal care assistants.

4. Assistance with self-administration of medication training.

a. The provider must develop and submit to Senior and Disabilities Services a training policy that includes

- i. the methods the provider will use to teach personal care assistants that assistance with self-administration of medication includes only the activities described in 7 AAC 125.030(d);
- ii. training goals;
- iii. plans and activities to enable trainees to achieve those goals;
- iv. methods of assessing trainee achievement of the training goals; and
- v. processes for evaluating the effectiveness of the training methods.

b. The provider must have on file, for each personal care assistant, documentation of successful completion of training on assistance with self-administration of medication.

5. Restrictive intervention training.

The provider must provide, and have on file, for each direct service worker, documentation of attendance and completion of training on the use of restrictive intervention that includes

- a. describing actions that are considered to be restrictive interventions;
- b. specifying restrictive interventions that are prohibited by regulation;

- c. identifying restrictive interventions appropriate for use with the population served by the provider; and
 - d. outlining the requirements for
 - i. documenting every use of restrictive intervention; and
 - ii. reporting as a critical incident any misuse of restrictive intervention and any use that results in medical intervention.
6. Community First Choice personal care assistant training.
 Before submitting a claim for payment for the following activities provided by a personal care assistant, the provider must have on file documentation of successful completion of training of that personal care assistant:
- a. techniques for providing supervision and cueing of ADLs and IADLs; and
 - b. methods for teaching recipients about the acquisition, maintenance, and enhancement of skills necessary to perform independently the activities specified in 7 AAC 125.030(b) – (d), subject to the limitation described in 7 AAC 127.040(b).

C. Supervision.

- 1. The provider must monitor personal care assistants
 - a. to ensure the health, safety, and welfare of recipients;
 - b. to identify and report fraud, abuse, or waste; and
 - c. to ensure training needed to render services to recipients is sufficient and completed as required.
- 2. When care is substandard, the provider must act to ensure that the care is improved or arrange for service delivery from other personal care assistants.
- 3. When a Report of Harm is made to Adult Protective Services (APS) or the Office of Children’s Services (OCS) alleging abuse, neglect, or exploitation against a personal care assistant, the provider must bar that individual from contact with recipients until the investigation is complete or the allegation is found to be unsubstantiated.

III. Recipient relationships.

A. Conflicts of interest.

- No owner, executive director, board member, authorized agent, employee, or contractor of a provider agency may
- 1. exploit a relationship with any recipient for personal or business benefit;
 - 2. engage in or allow any financial transaction with, or on the behalf of, any recipient if that transaction could result in personal or financial benefit to anyone other than the recipient;
 - 3. offer, promote, or sell products or non-program services to, or engage in any commercial transactions with recipients or their representatives without the written consent of the department;
 - 4. accept payment in any form from recipients, their families, or their representatives for personal care services or other services paid with Medicaid funds;
 - 5. solicit as clients any recipients known to be receiving services from another provider;
 - 6. seek to influence the eligibility determination process by
 - a. providing false or misleading information about an applicant or recipient; or
 - b. coaching an applicant or recipient to misrepresent the applicant’s or recipient’s needs.
 - 7. represent a recipient during any hearing or appeal process.

B. Recipient health, safety, and welfare.

- 1. The provider must determine whether, given the recipient’s diagnosis and needs, its personal care assistants have the capacity to provide services for that recipient.
- 2. The personal care assistant must report any material changes or concerns regarding a recipient
 - a. to the individual who supervises the personal care assistant or the personal care services program administrator;
 - b. to the recipient’s representative or representative’s designee; and
 - c. to the appropriate authority, in accordance with the training provided under 7 AAC 125.100(a)(2) and 7 AAC 127.115(a)(2).

3. In the event a recipient experiences an accident, incident, or injury that requires evaluation by or consultation with a medical professional or the personal care assistant believes emergency assistance is needed because of circumstances that create a risk to the health, safety, and welfare of a recipient or others, the personal care assistant must
 - a. contact the appropriate emergency responder, and provide emergency care and support, appropriate to the personal care assistant's skill and experience, until the responder arrives; and
 - b. cooperate with the responder as requested, including providing current health, diagnostic, and medication information as needed and as available on-site or accessible through a database or contact known to the personal care assistant.
4. The provider must communicate and cooperate with other providers to prevent placing recipients at risk; if disagreements or disputes regarding a recipient arise, the recipient's health, safety, and welfare must be the primary factor in reaching a resolution.

C. Interactions with recipients.

The provider must

1. treat all recipients respectfully;
2. encourage recipient involvement in the planning of their care;
3. cooperate with recipients who elect to change service providers;
4. collaborate with other providers to deliver an integrated program of services;
5. provide information regarding fees for services to recipients;
6. address recipient complaints about services;
7. evaluate whether services are appropriate and effective for achieving recipient goals; and
8. render quality care by employing competent, trained staff.

D. Termination of recipient services.

The provider must implement, in accordance with 7 AAC 125.110 and 7 AAC 127.070, a termination or discharge procedure for ending involvement with a recipient that

1. factors in the health, safety, and welfare of the recipient;
2. requires documentation that shows
 - a. failure to cooperate with the delivery of services;
 - b. risks of physical injury to the provider's employees or to other recipients; or
 - c. suspected recipient misrepresentation or fraud that created a financial risk for the provider.
3. includes supervisory review to determine whether
 - a. reasonable accommodation measures have been considered and tried; and
 - b. termination is appropriate;
4. provides written notice of the reasons for termination to the recipient and to Senior and Disabilities Services; and
5. informs the recipient regarding the provider's process for appealing a decision to terminate services, and other possible sources for the services being terminated.