

Enclosure _____

State of Maryland

1915(j) Self-Directed Personal Assistance Services State Plan Amendment Pre-Print

Citation 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

1915(j)

X Self-Directed Personal Assistance Services, as described and limited in
Supplement _____ to Attachment 3.1-A.

ATTACHMENT 3.1-A identifies the medical and remedial services provided to
the categorically needy.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1024. The time required to complete this information collection is estimated to average 20 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

Enclosure ____

Attachment 3.1-A

State of Maryland
1915(j) Self-Directed Personal Assistance Services State Plan Amendment Pre-Print

Amount, Duration, and Scope of Medical and Remedial Care Services Provided To the Categorically Needy

X Self-Directed Personal Assistance Services, as described in Supplement ____ to Attachment 3.1-A.

X Election of Self-Directed Personal Assistance Services: By virtue of this submittal, the State elects Self-Directed Personal Assistance Services as a State Plan service delivery option.

____ No election of Self-Directed Personal Assistance Services: By virtue of this submittal, the State elects not to add Self-Directed Personal Assistance Services as a State Plan service delivery option.

Enclosure _____

Supplement _____ to Attachment 3.1-A

Notwithstanding anything else in this State Plan provision, the coverage will be subject to such other requirements that are promulgated by CMS through interpretive issuance or final regulation.

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i. Eligibility

The State determines eligibility for Self-Directed Personal Assistance Services:

- A. In the same manner as eligibility is determined for traditional State Plan personal care services, described in Item 24 of the Medicaid State Plan.
- B. In the same manner as eligibility is determined for services provided through a 1915(c) Home and Community-Based Services Waiver.

ii. Service Package

The State elects to have the following included as Self-Directed Personal Assistance Services:

- A. State Plan Personal Care and Related Services, to be self-directed by individuals eligible under the State Plan.
- B. Services included in the following section 1915(c) Home and Community-Based Services waiver(s) to be self-directed by individuals eligible under the waiver(s). The State assures that all services in the impacted waiver(s) will continue to be provided regardless of service delivery model. Please list waiver names and services to be included.

iii. Payment Methodology

- A. The State will use the same payment methodology for individuals self-directing their PAS under section 1915(j) than that approved for State plan personal care services or for section 1915(c) Home and Community-Based waiver services.
- B. The State will use a different payment methodology for individuals self-directing their PAS under section 1915(j) than that approved for State plan personal care services or for section 1915(c) Home and Community-Based waiver services. Amended Attachment 4.19-B page(s) are attached.

iv. Use of Cash

- A. The State elects to disburse cash prospectively to participants self-directing personal assistance services. The State assures that all Internal Revenue Service (IRS) requirements regarding payroll/tax filing functions will be followed, including when participants perform the payroll/tax filing functions themselves.
- B. The State elects not to disburse cash prospectively to participants self-directing personal assistance services.

v. Voluntary Disenrollment

The State will provide the following safeguards in place to ensure continuity of services and assure participant health and welfare during the period of transition between self-directed and traditional service delivery models.

A self-directed CPAS participant may choose to change to the traditional service delivery model at any time. To transition to the traditional service delivery model the participant would notify their supports planner of their choice and the supports planner will coordinate the necessary changes. This will include the submission of a traditional service plan with an agency personal assistance provider to the Department for approval. Once the service plan is approved the participant will be able to access services through the traditional model. An urgent service plan approval process exists should a need to transition to the traditional model be urgent. The supports planner will seamlessly coordinate the transition to ensure continuity of services.

vi. Involuntary Disenrollment

- A. **The circumstances under which a participant may be involuntarily disenrolled from self-directing personal assistance services, and returned to the traditional service delivery model are noted below.**

A participant may be involuntarily disenrolled from self-directing personal assistance services if it is determined that they face immediate jeopardy to their health and safety or violate state or federal regulations or policy.

B. The State will provide the following safeguards in place to ensure continuity of services and assure participant health and welfare during the period of transition between self-directed and traditional service delivery models.

During the transition between service models, the assigned supports planner will assist the participant with a traditional service delivery model service plan with an agency personal assistance provider. An urgent service plan review process exists to ensure timely review by the State.

vii. Participant Living Arrangement

Any additional restrictions on participant living arrangements, other than homes or property owned, operated, or controlled by a provider of services, not related by blood or marriage to the participant are noted below.

CPAS participants, if not in their own home, must reside in a setting that is integrated in and supports full access of individuals to the great community, is chosen by the individual from among setting options including non-disability specific settings and options for a private unit in a residential setting and ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint are met.

viii. Geographic Limitations and Comparability

- A. The State elects to provide self-directed personal assistance services on a statewide basis.
- B. The State elects to provide self-directed personal assistance services on a targeted geographic basis. Please describe: _____
- C. The State elects to provide self-directed personal assistance services to all eligible populations.
- D. The State elects to provide self-directed personal assistance services to targeted populations. Please describe: _____
- E. The State elects to provide self-directed personal assistance services to an unlimited number of participants.
- F. The State elects to provide self-directed personal assistance services to _____ (insert number of) participants, at any given time.

ix. Assurances

- A. The State assures that there are traditional services, comparable in amount, duration, and scope, to self-directed personal assistance services.
- B. The State assures that there are necessary safeguards in place to protect the health and welfare of individuals provided services under this State Plan Option, and to assure financial accountability for funds expended for self-directed personal assistance services.
- C. The State assures that an evaluation will be performed of participants' need for personal assistance services for individuals who meet the following requirements:
 - i. Are entitled to medical assistance for personal care services under the Medicaid State Plan; or
 - ii. Are entitled to and are receiving home and community-based services under a section 1915(c) waiver; or
 - iii. May require self-directed personal assistance services; or
 - iv. May be eligible for self-directed personal assistance services.
- D. The State assures that individuals are informed of all options for receiving self-directed and/or traditional State Plan personal care services or personal assistance services provided under a section 1915(c) waiver, including information about self-direction opportunities that is sufficient to inform decision-making about the election of self-direction and provided on a timely basis to individuals or their representatives.
- E. The State assures that individuals will be provided with a support system meeting the following criteria:
 - i. Appropriately assesses and counsels individuals prior to enrollment;
 - ii. Provides appropriate counseling, information, training, and assistance to ensure that participants are able to manage their services and budgets;
 - iii. Offers additional counseling, information, training, or assistance, including financial management services:
 - 1. At the request of the participant for any reason; or
 - 2. When the State has determined the participant is not effectively managing their services identified in their service plans or budgets.
- F. The State assures that an annual report will be provided to CMS on the number of individuals served through this State Plan Option and total expenditures on their behalf, in the aggregate.
- G. The State assures that an evaluation will be provided to CMS every 3 years, describing the overall impact of this State Plan Option on the health and welfare of participating individuals, compared to individuals not self-directing their personal assistance services.
- H. The State assures that the provisions of section 1902(a)(27) of the Social Security Act, and Federal regulations 42 CFR 431.107, governing provider agreements, are met.

- I. The State assures that a service plan and service budget will be developed for each individual receiving self-directed PAS. These are developed based on the assessment of needs.
- J. The State assures that the methodology used to establish service budgets will meet the following criteria:
 - i. Objective and evidence based, utilizing valid, reliable cost data.
 - ii. Applied consistently to participants.
 - iii. Open for public inspection.
 - iv. Includes a calculation of the expected cost of the self-directed PAS and supports if those services and supports were not self-directed.
 - v. Includes a process for any limits placed on self-directed services and supports and the basis/bases for the limits.
 - vi. Includes any adjustments that will be allowed and the basis/bases for the adjustments.
 - vii. Includes procedures to safeguard participants when the amount of the limit on services is insufficient to meet a participant's needs.
 - viii. Includes a method of notifying participants of the amount of any limit that applies to a participant's self-directed PAS and supports.
 - ix. Does not restrict access to other medically necessary care and services furnished under the plan and approved by the State but not included in the budget.

x. Service Plan

The State has the following safeguards in place, to permit entities providing other Medicaid State Plan services to be responsible for developing the self-directed personal assistance services service plan, to assure that the service provider's influence on the planning process is fully disclosed to the participant and that procedures are in place to mitigate that influence.

Supports Planning Agencies (SP Agencies) are required by State regulations to be free from conflicts of interest. Conflicts of interest are defined in State regulations as any real or seeming incompatibility between one's private interests and one's public or fiduciary duties. As such, SP Agencies are required to ensure freedom of choice among any willing provider for all services. To further ensure that conflicts of interest do not occur, the assessment for medical eligibility is completed by the local health department, an entity separate from the SP Agencies. The SP Agencies then uses this information along with a person centered planning process to assist with service plan development.

xi. Quality Assurance and Improvement Plan

The State's quality assurance and improvement plan is described below, including:

- i. **How it will conduct activities of discovery, remediation, and quality improvement in order to ascertain whether the program meets assurances, corrects shortcomings, and pursues opportunities for**

improvement; and

- A. CPAS will adopt the 1915 (k) Community First Choice Quality Management Strategy where appropriate.
- B. CPAS will have a Quality Management Strategy designed to review operations on an ongoing basis, discover issues with operations, remediate those issues, and develop quality improvement initiatives to prevent the repeat of operational problems. The Quality Council for the program meets regularly to address quality issues through data analysis, sharing program experiences and information, and refining the quality management system.
- C. Regular reporting and communication among divisions of the Office of Health Services, providers, the utilization control agent, the Community Options Advisory Council, and Quality Council, facilitates ongoing discovery and remediation. The Office of Health Services is the lead entity responsible for trending, prioritizing and determining system improvements based on the data analysis, trending and the formulation of recommendations for system improvements. A plan to work on significant problem areas may result in the establishment of a specific task group or groups, which may include stakeholders.
- D. When program data are received, it is documented by OHS staff. Data sources include, but are not limited to, provider enrollment documents, provider and participant audits, the provider database, the LTSSMaryland case management tracking system, reportable events submissions, and other reporting. Data are assigned to appropriate staff to be reviewed, prioritized and recorded in the appropriate trends and anomalies that may need immediate attention. Plans developed as a result of this process will be shared with stakeholders for review and recommendation for remediation.
- E. In accordance with the Department's Reportable Events Policy, all entities associated with CPAS are required to report alleged or actual Reportable Events. All Reportable Events shall be reported in full on the Department's newly designed Reportable Events form in the tracking system, analyzed via reports and through the Quality Council process to analyze trends and identify areas in need of improvement.
- F. Any person who believes that an individual has been subjected to abuse, neglect, or exploitation in the community or an assisted living facility is required to report the alleged abuse, neglect, or exploitation immediately to an Adult Protective Services (APS) or Child Protective Services (CPS) office and, within 24 hours, the Office of Health Services.

ii. The system performance measures, outcome measures, and satisfaction measures that the State will monitor and evaluate.

A. Performance Measures:

1. The standardized assessment instrument for CPAS captures information about support needs and along with the tracking system, maintains a database of all applicants and participants. All historical data can be retrieved easily by ad hoc reporting. Reports are available on measures such as number of applicants receiving an annual assessment, number of participants in each RUG or case mix category, and other measures which can be sorted by time frame, assessor, by jurisdiction, and other criteria. The Department can evaluate the timeliness of the completion of the assessments, the Utilization Control Agent in completing their reviews, and of various tasks of the Supports Planners.
3. The Department has added a Reportable Events module to LTSSMaryland to enhance and coordinate reviews of incidents and track information in one uniform system.

- B. Satisfaction Measures:** The State has chosen to implement the Money Follows the Person (MFP) Quality of Life survey amended with several questions from the Participant Experience Survey (PES). These questions will be asked directly to participants to determine level of satisfaction with the CPAS program.

xii. Risk Management

A. The risk assessment methods used to identify potential risks to participants are described below.

Risks are identified through the interRAI assessment or through discussions with the participant and their representatives. The interRAI assessment reviews parts of the assessment and identifies areas that may require additional follow-up or planning. These are called Clinical Assessment Protocols (CAPs) and are prepopulated on the service plan. Supports planners review the CAPs with participants during the person centered planning process and also identify any other risks that need to be manually added to the service plan.

B. The tools or instruments used to mitigate identified risks are described below.

The service plan lists the identified risks and serves to address those risks through a variety of Medicaid and non-Medicaid services and supports. Person centered planning is used by supports planners to help participants or their representatives identify resources to mitigate risks. Nurse monitoring is a service that exists to monitor the quality of the personal assistance services provided and the general health status of a participant. Nurse monitoring is required when personal assistance

services are being received. There is a Reportable Event (RE) policy in place which requires all providers to report to the State any events that impact a participant's health and safety.

- C. The State's process for ensuring that each service plan reflects the risks that an individual is willing and able to assume, and the plan for how identified risks will be mitigated, is described below.**

All service plans are reviewed and approved by the State prior to implementation. Risks identified on the plan through the interRAI assessment CAPs or through discussion with the participant are considered when the plan is reviewed to ensure that there is a plan to mitigate identified risks or to identify risks that a participant is willing to assume. All plans are required to meet health and safety needs of the participant prior to approval.

- D. The State's process for ensuring that the risk management plan is the result of discussion and negotiation among the persons designated by the State to develop the service plan, the participant, the participant's representative, if any, and others from whom the participant may seek guidance, is described below.**

Supports planners are required to conduct a person centered planning meeting for the development of all service plans, taking place at minimum during the application process and during the annual redetermination process. The participant or their chosen representative signs the service plan to indicate agreement with all information documented within the plan, including the risks identified and the services and supports planned to mitigate those risks.

xiii. Qualifications of Providers of Personal Assistance

- A. The State elects to permit participants to hire legally liable relatives, as paid providers of the personal assistance services identified in the service plan and budget.
- B. The State elects not to permit participants to hire legally liable relatives, as paid providers of the personal assistance services identified in the service plan and budget.

xiv. Use of a Representative

- A. X The State elects to permit participants to appoint a representative to direct the provision of self-directed personal assistance services on their behalf.
- i. The State elects to include, as a type of representative, a State-mandated representative. Please indicate the criteria to be applied.
- B. The State elects not to permit participants to appoint a representative to direct the provision of self-directed personal assistance services on their behalf.

xv. Permissible Purchases

- A. The State elects to permit participants to use their service budgets to pay for items that increase a participant's independence or substitute for a participant's dependence on human assistance.
- B. X The State elects not to permit participants to use their service budgets to pay for items that increase a participant's independence or substitute for a participant's dependence on human assistance.

xvi. Financial Management Services

- A. X The State elects to employ a Financial Management Entity to provide financial management services to participants self-directing personal assistance services, with the exception of those participants utilizing the cash option and performing those functions themselves.
- i. The State elects to provide financial management services through a reporting or subagent through its fiscal intermediary in accordance with section 3504 of the IRS Code and Revenue Procedure 80-4 and Notice 2003-70; or
- ii. X The State elects to provide financial management services through vendor organizations that have the capabilities to perform the required tasks in accordance with section 3504 of the IRS Code and Revenue Procedure 70-6. (When private entities furnish financial management services, the procurement method must meet the requirements set forth Federal regulations in 45 CFR section 74.40 – section 74.48.)
- iii. The State elects to provide financial management services using “agency with choice” organizations that have the capabilities to perform the required tasks in accordance with the principles of self-direction and with Federal and State Medicaid rules.

- B. _____ The State elects to directly perform financial management services on behalf of participants self-directing personal assistance services, with the exception of those participants utilizing the cash option and performing those functions themselves.