

Self-Directed Care

G-1 Statute 65-6201

The following is the Kansas statute which describes the option of self-directed care available to individuals on the PD waiver.

Chapter 65.--PUBLIC HEALTH, Article 62.--MISCELLANEOUS PROVISIONS

65-6201. Individuals in need of in-home care; definitions. As used in this act:

(a) "Attendant care services" means those basic and ancillary services which enable an individual in need of in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care and mobility.

(b) "Basic services" shall include, but not be limited to:

(1) Getting in and out of bed, wheelchair or motor vehicle, or both;

(2) assistance with routine bodily functions including, but not limited to:

(A) Health maintenance activities;

(B) bathing and personal hygiene;

(C) dressing and grooming; and

(D) feeding, including preparation and cleanup.

(c) "Ancillary services" means services ancillary to the basic services provided to an individual in need of in-home care who needs one or more of the basic services, and include the following:

(1) Homemaker-type services, including but not limited to, shopping, laundry, cleaning and seasonal chores;

(2) companion-type services including but not limited to, transportation, letter writing, reading mail and escort; and

(3) assistance with cognitive tasks including, but not limited to, managing finances, planning activities and making decisions.

(d) "Health maintenance activities" include, but are not limited to, catheter irrigation; administration of medications, enemas and suppositories; and wound care, if such activities in the opinion of the attending physician or licensed professional nurse may be performed by the individual if the individual were physically capable, and the procedure may be safely performed in the home.

(e) "Individual in need of in-home care" means any functionally disabled individual in need

Self-Directed Care

of attendant care services because of impairment who requires assistance to complete functions of daily living, self-care and mobility, including, but not limited to, those functions included in the definition of attendant care services.

(f) "Physician" means a person licensed to practice medicine and surgery.

History: L. 1989, ch. 191, § 1; L. 1990, ch. 233, § 5; April 26.

G-2 Description of self-directed care

Self-directed care is an option for attendant care services in the HCBS/PD waiver program. It allows an individual in need of attendant care services to live in the least restrictive environment and direct the attendant care services that have been determined by the consumer and the ILC to be essential ADLs or IADLs.

- a. Personal Care Attendant (PCA) services are to be provided in accordance with the POC which has been completed by the ILC and consumer and approved by AMM staff.
- b. The ILC will monitor the case to ensure that the selected attendant care provider is performing the necessary services.
- c. The self-directed consumer assumes control over the selection, training, scheduling, monitoring and dismissing of all Personal Care Attendants.
- d. All attendants must be 18 years of age and enrolled through a CIL, HHA, or payroll agent. Services provided by family members are subject to the same quality assurance standards as other providers. Quality of care will be monitored and reviewed by the ILC. If the consumer has a spouse or is a minor, the spouse or parent cannot be a paid attendant unless approved by the AMM staff and meeting all defined criteria. Criteria are defined below.

K.A.R 30-5-307 Family reimbursement restriction. (a) An adult consumer's spouse cannot be paid to provide HCBS services to that consumer. A minor consumer's parents cannot be paid to provide HCBS services to that consumer. (b) Unless one of the four criteria noted below are met.

1. Consumer's residence is documented in writing by three HCBS provider agencies to be so remote or rural that HCBS services would be otherwise unavailable.

Self-Directed Care

2. Consumer's health, safety, or social welfare would be jeopardized and is so documented in writing by two health care professionals including the attending physician.
 3. Due to advancement of chronic disease, consumer's primary means of communication can only be understood by the spouse or parent of minor child and is so documented in writing by the attending physician.
 4. Written documentation from three HCBS provides that delivery of HCBS services to the consumer poses serious health or safety risks for providers thereby rendering HCBS services otherwise unavailable.
- e. For all Health Maintenance Activities the consumer shall obtain a completed Physician/RN Statement to be signed by an attending physician or registered nurse. The statement must identify the specific activities that have been authorized by the physician or registered professional nurse. The ILC must ensure that the Physician/RN Statement is completed in its entirety. *(See Section Q for a sample of this form.)*

G-3 Consumer responsibilities

- a. The consumer must exercise responsibility for making choices about attendant care services, understand the impact of the choices made and assume responsibility for the results of their choices. By choosing self-direction, the consumer assumes the responsibility of hiring, training, monitoring and terminating their personal care attendants. The consumer must also ensure that the PCAs work time follows the approved POC and all services stated on the ACW are received.

The specific functions that must be performed by the consumer, the consumer's guardian and/or conservator, the holder of the consumer's Durable Power of Attorney, or the individual acting on behalf of the consumer are as follow:

- i. Recruit PCAs and back-up PCAs;
- ii. Collect basic information for establishing the PCAs files with respect to the identity of the attendant (name, address, phone number, etc.) and background (past work

Self-Directed Care

- history and any relevant training) in the form of an application for employment;
- iii. Select PCAs, assign hours within the limits of the service authorization, and refer them for payroll registration;
 - iv. Maintain continuous PCA coverage in accordance with the authorization for service. This includes assigning replacement workers during vacation, sick leave or other absences of the assigned attendant;
 - v. Dismiss the attendant when necessary and notify the provider/payroll agent of the termination;
 - vi. Provide each PCA with orientation sessions and training on the general duties of an PCA and the specific tasks and procedures to be performed. The training that PCAs undergo will not qualify them to serve any other consumer;
 - vii. Transmit information to the PCA(s) in regard to pay, time and leave schedules, and time sheets;
 - viii. Maintain time sheets on each PCA working for the consumer, verify hours worked, and forward them to the payroll agent;
 - ix. Notify their ILC of any changes in their medical condition, eligibility or needs which affect the provision of services, such as hospitalization or need for more hours of service;
 - x. Notify all providers if there is a desire to discontinue the option to self-direct.

NOTE: HCBS services cannot be provided during a hospitalization or nursing home stay.

G-4 Representatives

Self-Directed Care

- a. A durable power of attorney for health care decisions is a written document in which a consumer may authorize another person (or “agent”) to make health care decisions for them in the event that they are unable to speak for themselves. Health care decisions include the power to consent, refuse consent or withdraw consent to any type of medical care, treatment, service or procedure. Unless powers are limited in the durable power of attorney for health care document, the agent may hire physicians and other health care providers. However, the document may include specific instructions regarding the consumer’s health care decisions which must be made in accordance with their direction.
- b. An individual acting on behalf of a new consumer or the holder of the new consumer's activated Durable Power of Attorney for Health Care Decisions cannot be the consumer's paid PCA. If the designation of the appointed representative is withdrawn, the individual may become the consumer's paid PCA after the next annual review or a significant change in the consumer's needs occurs prompting a reassessment.
 - (1) As of January 1, 2000, the HCBS/PD waiver states that “persons directing a consumer’s care through the self-directed care option may not be a provider of this service. Those providing the service prior to this date have been “grandfathered” under this standard.
 - (2) When an individual acting on behalf of the consumer is the holder of the consumer’s Durable Power of Attorney for Health Care Decisions and is also the consumer’s PCA under the grandfathered standard, the ILC must complete a home visit at least every three months to ensure that the selected care giver is performing the necessary services.
- c. A consumer who has been adjudicated as needing a guardian and/or conservator cannot choose to self-direct his/her care. The consumer's guardian and/or conservator may choose to self-direct the consumer's care. However, an adult consumer's legal guardian and/or conservator cannot act as the consumer's paid PCA.
 - (1) Guardians and/or conservators are not allowed to benefit financially from their interactions with the ward and/or conservatee they represent (See K.A.R 30-5-302).

Self-Directed Care

G-5 Cessation of the self-directed care option

The ILC may discontinue the consumer's participation in the self-directed PCA care services option and offer agency-directed services when, in the ILC's professional judgment as observed and documented in the consumer's case file and after efforts have been made with the support of a qualified Medicaid provider and/or CIL, when one of the following occurs:

- a. If the health and welfare needs of the consumer are not being met either based on the observations of the ILC and AMM staff or confirmation by APS, and all training methods have been exhausted;
- b. If the PCA is not providing the services as outlined on the ACW and the situation cannot be remedied;
- c. If the consumer is falsifying records resulting in claims for services not rendered;
- d. Consumers who choose to discontinue self-directing their services are requested to give ten (10) days notice of their decision to the ILC to allow for the coordination of service provision. The ILC shall explore other service options and complete a new Consumer Choice form. *(See Section Q for a sample of this form.)*