

Managed Care Operations Memorandum
General Operations
MCOPS Memo # 11/2020-016

Date: November 24, 2020

Subject: Paying Legally Responsible Family Members to Provide Personal Care Services as Caregivers

To: Physical Health Managed Care Organizations (PH-MCOs) - Statewide

From: Laurie Rock, Director, Bureau of Managed Care Operations, Office of Medical Assistance Programs

Purpose:

To formally notify the PH-MCOs that parents or other legally responsible family caregivers may provide medically necessary personal care services during the federal Public Health Emergency for their child if they are employed by a home health agency.

Background:

Section 1905(a)(24) of the Social Security Act and the implementing regulation (42 C.F.R. § 440.167) preclude payment for personal care services provided by a legally responsible relative. Due to the COVID-19 pandemic and concerns that there might be a shortage of available home health staff, the Department of Human Services submitted a waiver request under Section 1135 of the Social Security Act to the Centers for Medicare & Medicaid Services (CMS) asking to waive this provision. This waiver would provide flexibilities to meet the needs for medically necessary services to children requiring personal care services. This waiver request was granted by CMS in June 2020.

Discussion:

The 1135 waiver approval allows payment for authorized hours of personal care services rendered by legally responsible individuals, which could be inclusive of legally responsible family caregivers. Personal care services are provided to beneficiaries under the age of 21 as home health aide services through home health agencies. In order for the family member to receive payment for providing personal care services, the family member must be employed by a licensed home health agency. The waiver does not allow for unlicensed caregivers to be paid to provide skilled care needs such as ventilator care or tube feedings.

Next Steps:

All PH-MCOs must pay home health agencies that have hired parents and other legally responsible family caregivers to provide medically necessary personal care services.

Please direct questions to Holly Alexander at 717-772-6300.

Obsolete:

This Operations Memorandum will remain in effect until further notice or the end of the Federal Public Health Emergency.

Attachment:

N/A