

Home and Community Based Services Manual

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PERSONAL CARE ASSISTANCE - STATE PLAN (CONSUMER-DIRECTED MODEL)

POLICY

Personal Care Assistance - (Consumer-Directed Model) (CDS) services provide assistance with activities of daily living (ADL) and/or instrumental activities of daily living (IADL) provided as an alternative to nursing facility placement to persons with a physical disability.

- ◆ Authorization of CDS is funded through both the Medicaid State Plan and the Independent Living Waiver (ILW). This policy addresses State Plan services only; refer to [Policy 3.55](#) for additional information regarding services through the ILW.
- ◆ All CDS participants must meet the following eligibility criteria:
 - At least 18 years of age;
 - Be physically disabled, as defined by 19 CSR 15-8.100;
 - Loss of, or loss of use of, all or part of the neurological, muscular or skeletal functions of the body to the extent that the person requires the assistance of another person to accomplish routine tasks.
 - Be able to self-direct their own CDS (see guidelines below);
 - In active Medicaid status (see [Policy 2.00](#));
 - Participants who are eligible for Medicaid on a spenddown basis may be authorized to receive CDS during periods when they meet their spenddown liability.
 - During periods when the participant has **not** met their monthly spenddown liability amount, the participant and provider may make a private arrangement for the continued delivery of services. In these instances, the participant is responsible for the cost of services received.
 - Participants who receive Medicaid due to eligibility for Blind Pension (BP) (see Policy 2.00, Appendix 3) may be authorized for CDS.
 - Participants in a 'Transfer of Property penalty' may be authorized for CDS.
 - Authorization of CDS does **not** meet the requirements for an individual to be eligible for Home and Community Based (HCB) Medicaid.
 - Have an appropriate Medicaid Eligibility (ME) code (see Policy 2.00, [Appendix 3](#)); and
 - Meet nursing facility level of care (LOC).
- ◆ CDS shall be authorized in 15 minute units.
- ◆ CDS shall be included in the overall cost of care for the participant (see [Appendix 2](#)).
 - CDS shall not exceed 60% of the average statewide monthly cost for care in a nursing facility; including when authorized in combination with other State Plan Home and Community Based Services (HCBS) such as, Personal Care (PC), Advanced Personal Care (APC), and Authorized Nurse Visits (RN).
 - The combination of CDS and agency model PC shall not exceed 60% of the average monthly cost for care in a nursing facility, regardless of any other services authorized.

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NOTE: The cost of RN visits are not included in the 60% of the average statewide monthly cost for care in a nursing facility restriction for basic personal care.

- When the combination of CDS, other State Plan services, and a Home and Community Based Waiver (i.e., Aged and Disabled Waiver (ADW), Independent Living Waiver (ILW)) services exceed the cost maximum by the cost of the Waiver services:
 - The appropriate supervisor for the Division of Senior and Disability Services (DSDS) staff shall review all person centered care plan (PCCP) requests over the 100% cost cap to ensure the participant's unmet needs require the amount of service requested.
 - If documentation supports the request, the case shall be forwarded to the Bureau of Long Term Services and Supports (BLTSS) for consideration and approval prior to authorization over 100% of the cost cap.
 - Pending the approval from BLTSS to exceed the cost cap, CDS in combination with other State Plan or ADW services can be authorized up to 100% of the cost cap, excluding PC and/or CDS which may never exceed 60% of the cost cap.

NOTE: When a person centered care plan (PCCP) includes Adult Day Care authorized through the Aged and Disabled Waiver or the Adult Day Care Waiver, the total cost of care **cannot** exceed 100% of the cost cap.

- Pursuant to federal guidelines, a participant can only be enrolled in one Home and Community Based Waiver at a time, regardless of who is administering the Waiver program.

Determination of Ability to Self-Direct

A current or potential CDS participant is required to have the ability to direct his/her own care per Section 208.903.1.(4), RSMo. Section 208.900(2), RSMo defines "consumer-directed" as the hiring, training, supervising, and directing of the personal care attendant by the consumer. Section 208.909.1, RSMo states that current or potential participants must be able to fulfill the following responsibilities:

- Supervise the personal care attendant;
- Verify the wages to be paid to the personal care attendant;
- Prepare and submit time sheets, signed by both the participant and personal care attendant;
- Notify DSDS staff or its designee of any changes in circumstances affecting the CDS PCCP or in the participant's place of residence; and
- Report any problems resulting from the quality of services rendered by the personal care attendant to the participant's provider or to DSDS staff or its designee, if the matter can't be resolved through the provider.

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Determinations that a potential participant requesting CDS does not have the capability of directing his/her own care or cannot fulfill the responsibilities of a CDS participant must be documented and/or attached in the HCBS Web Tool. Examples of documentation may include, but are not limited to:

- An individual with a guardian or conservator cannot be rejected for CDS solely for that reason. Explanation of the potential participant's cognitive inabilities which was a factor in the determination of an individual's need for a guardian or conservator can provide reason to reject for lack of ability to self-direct care.
 - DSDS staff or its designee shall obtain, as required, copies of the petition that resulted in the appointment of a guardian and/or conservator, the medical evidence submitted in that case, and the appointment order. These efforts shall include contact with the court system, the current or potential participant being referred, the person referring the individual for services, family members of the individual, and/or the guardian or conservator.
- Statements or medical records from the current or potential participant's healthcare professional that document any functional limitations of the individual that support the individual is not capable of self-direction. The Healthcare Professional Inquiry, [Appendix 13](#), shall be utilized for this purpose when there are concerns regarding the current or potential participant's ability to self-direct. The response received from the Healthcare Professional Inquiry shall be documented in Case Notes and uploaded to the HCBS Web Tool.
- Responses, which need further clarification, from the current or potential participant to questions presented during the assessment process, as well as additional questions listed in [Chapter 4.00, Appendix 10](#) as documented in the Case Notes. If [Chapter 4.00, Appendix 10](#) is utilized, answers to the questions shall be an exhibit if the current or potential participant appeals the decision that he/she lacks the ability to self-direct services.
 - Questions are to be posed to the current or potential participant.
 - If another individual responds on behalf of the current or potential participant, this must be documented in the Case Notes.
- Completion of the St. Louis University Mental Status (SLUMS) exam ([see Chapter 4.00, Appendix 8](#)) may be utilized when there is a concern regarding an individual's ability to self-direct. The instructions to this policy provide background information on the SLUMS exam, clarifies when the exam shall be utilized, and defines further evaluation which must be pursued.

Once a thorough review of all available information has taken place which determines the current or potential participant cannot self-direct Adverse Action procedures shall be followed ([see Chapter 5](#)).

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a current or potential participant is determined to be unable to self-direct, DSDS staff or its designee shall advise that individual and/or the authorized representative of the other available options. [Chapter 4.00, Appendix 1](#), outlines the various services available through alternative HCBS. Other entities administer programs that may be of benefit to the current or potential participant as well. Current or potential participants shall be advised that PC and APC services are comparable to services available through the CDS program.

- DSDS staff or its designee shall document the discussions held regarding the availability of other services in the Case Notes.
- ◆ Participants are allowed to exercise individual choice in deciding who provides their CDS. The CDS participants are the employer-of-record of the attendant providing the service.
 - The attendant may be a family member. However, the attendant cannot be a legally responsible relative (i.e., the participant's spouse or a guardian).

CDS participants select an HCBS provider that is enrolled as a Personal Care Assistance-Consumer-Directed Model provider with the Department of Social Services (DSS), Missouri Medicaid Audit and Compliance (MMAC) Unit. Payment is made to the HCBS provider on behalf of the participant. The HCBS provider processes payroll, on behalf of the participant, to the individual providing the services.

- ◆ Restrictions:
 - CDS shall not be authorized to pay for services when:
 - the primary benefit is to a household unit; or
 - the task is one that members of a household may reasonably be expected to share or do for one another, unless the task is above and beyond typical activities that would be provided for a household member without a disability.
 - CDS does not include any task that must be performed/ trained by a licensed professional (i.e., skilled nursing, therapies ordered by a physician, etc.).
 - A physically disabled participant with a *cognitive* impairment that does not affect their ability to self-direct is authorized through the ILW only; these participants cannot be authorized through State Plan CDS.
 - Participants authorized for certain services through the Department of Mental Health (DMH) may not be eligible for services as outlined in this policy. Staff shall refer to the Service Coordination Policy for guidance on coordination of services for participants authorized for DMH services (See [Policy 4.35](#)).
 - Individuals who reside in a nursing facility, Residential Care Facility (RCF) or Assisted Living Facility (ALF) licensed by DHSS, Division of Regulation and Licensure (DRL) are **not** eligible for CDS.
 - The 'CDS Restricted' checkbox (see [Policy 10.05](#)) in the HCBS Web Tool has been checked by DSDS staff with an administrative user role (supervisory staff) when:

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- DSDS staff followed the procedures outlined in the Adverse Action policy (see [Policy 5.00](#)) and Appeal and Hearing Process (see [Policy 6.00](#)). Services shall not be closed until such time the 10 day appeal time frame has passed and the participant has not appealed, or until DSS, Division of Legal Services (DLS) has made its decision final for the appeal hearing affirming the adverse action; and
 - As appropriate all current authorization(s) for CDS shall be closed, and other HCBS that may meet the needs of the participant has been offered to the participant, e.g., Personal Care – Agency Model.
- ◆ During the development of the PCCP, DSDS staff or its designee may become aware of a family member who is currently providing informal support and wishes to be the paid attendant. In cases such as this, DSDS staff or its designee shall consider undue hardship that creates circumstances that adversely **affects the participant**, including but not limited to:
- Loss of participant’s income;
 - Overall disintegration of the family;
 - Abuse and neglect;
 - Misuse of child labor; and/or
 - Physical contraindications, which prevent the caregiver from performing necessary tasks.

CDS provides “hands on” assistance with physical tasks that benefit the participant and are based on the physical limitations of the participant.

No time can be allotted for stand-by assistance, prompting, or cueing;

No time can be allotted for respite care or for time spent waiting for a participant at any appointment.

- ◆ CDS may include any of the following tasks:
- Bathing, including shampooing hair;
 - Dressing/Grooming; includes dressing/undressing, combing hair, nail care, oral hygiene and denture care, and shaving;
 - Ostomy/catheter hygiene;
 - Bowel and/or bladder routine;
 - Assistance with toileting;
 - Use of transfer devices/assistance with mobility issues/prostheses;
 - Passive Range of Motion;
 - Manual assistance with medications (i.e., prompting while assisting, opening mediplanner, handing a glass of water, steadying the glass of water);
 - Turning and positioning;
 - Mobility/Transfer; (e.g., assistance to/from living room or in/out of bed);
 - Treatments; (e.g., eye drops, rubbing creams or lotions that are prescribed or non-prescribed);

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- Cleaning and maintenance of equipment;
- Clean bath;
- Make bed;
- Change linens;
- Clean floors;
- Tidy and Dust;
- Laundry (home);
- Laundry (off-site);
- Trash;
- Read/write essential correspondence;
- Meal preparation and/or assist with eating;
- Wash dishes;
- Clean kitchen; and
- Essential Transportation:

All essential shopping/errands (whether or not the participant is with the CDS attendant), medical appointments,* school, or employment, etc. For the participant to be eligible for transportation assistance there must also be an identified need for personal care assistance, even if that need is met by supports other than CDS.

* CDS Transportation does **not** include transporting to medical appointments when that appointment is covered under the Non-Emergency Medical Transportation (NEMT) program. To determine if the medical appointment is covered by NEMT, contact the NEMT provider at 1-866-269-5927.

Calculating Essential Transportation:

Essential transportation is entered into the HCBS Web Tool as minutes per month. In order to calculate essential transportation, the total number of minutes needed per day is multiplied by the number of days per month (utilizing the chart below to determine the number of days per month based on the frequency per week). The result is the total minutes per month of essential transportation to be entered into the HCBS Web Tool.

# of Days/Week	1	2	3	4	5	6	7
# Days/Month	5	10	15	19	23	27	31

Example for 90 minutes, once a week: 90×5 (90 minutes multiplied by days per month, allowing for the fifth week in some months) = 450 minutes. In the HCBS Web Tool, 450 minutes should be entered and the HCBS Web Tool will calculate the units authorized.

Example for 60 minutes, twice a week: 60×10 (using same formula as above) = 600 minutes.

Example for 60 minutes, three times a week: $60 \times 15 = 900$ minutes.

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Example for an unexpected outing, such as if the participant normally receives 900 minutes a month, then during the month of May has a medical appointment not covered by NEMT. This would be calculated by figuring the minutes required for the additional visit and adding to the regular 900 minutes for the one monthly visit.