

**Title 19—DEPARTMENT OF
HEALTH AND SENIOR SERVICES
Division 15—Division of Senior and Disability Services
Chapter 8—Consumer-Directed Services**

PROPOSED AMENDMENT

19 CSR 15-8.200 Eligibility. The department is amending sections (6) and (8).

PURPOSE: This amendment incorporates changes in the consumer-directed services program required by House Bill 1682, 100th General Assembly, Second Regular Session (2020), which update the criteria, procedures, and responsibilities for consumers of consumer-directed services administered by the Department of Health and Senior Services.

PURPOSE: This rule establishes the criteria and procedures for determining an applicant eligible to receive consumer-directed services.

(1) Subject to legislative appropriations, the Department of Health and Senior Services (DHSS) shall provide financial assistance for consumer-directed services (CDS) through eligible vendors to each consumer determined eligible to participate in the CDS program.

(A) All consumers must meet the following general criteria for eligibility under the CDS program:

1. Be at least eighteen (18) years of age;
2. Able to direct their own care (consumer-directed);
3. Capable of living independently with CDS;
4. Physically disabled;
5. Require at least a nursing facility level of care under regulations established by DHSS;
6. Unmet needs must be safely met at a cost that shall not exceed the average monthly Medicaid cost of nursing facility care as determined by the Department of Social Services (DSS);
7. Document proof of Medicaid eligibility under Title XIX of the Social Security Act pursuant to federal and state laws and regulations; and
8. Participate in an assessment and/or evaluation conducted by DHSS to assign point values pursuant to federal and state laws and regulations.

(2) Individuals eligible for Medicaid under Title XIX of the Social Security Act who do not meet the above criteria for the CDS program shall be referred to other programs or agencies, as appropriate, to determine eligibility for personal care services pursuant to federal and state laws and regulations.

(3) Any assessments and/or evaluations shall be conducted by DHSS, using the common assessment tool utilized for assessment of other disabled and aged adults.

(4) The CDS plan of care is based on the assessment and/or evaluation performed by DHSS and determines the appropriateness and adequacy of services and ensures that services furnished are consistent with the nature and severity of the individual's disability.

(A) The initial assessment and/or evaluation shall be conducted in the consumer's home or place of residence and include, but not be limited to, the following:

1. The functions of daily living;
 2. The frequency and duration of the routine tasks or activity(ies) required to live independently; and
 3. A description of met and/or unmet needs.
- (B) The CDS plan of care shall include, but not be limited to, the following:
1. The maximum number of units of personal care assistance (PCA) to be provided based on the consumer's unmet needs;
 2. The description and frequency of services to be provided as documented on the assessment and/or evaluation;
 3. The starting date for PCA services;
 4. The date for reassessment or reevaluation of CDS services;
 5. Documentation of the consumer's choice of vendor; and
 6. Consent signatures by the consumer and DHSS.
- (C) Copies of the plan of care will be provided to the consumer and the vendor.
- (D) If a consumer is receiving services or transferring from another service provider or agency, DHSS is responsible for collaborating and coordinating services through the plan of care.
- (5) The individual shall be notified of DHSS's decision regarding eligibility for CDS within ten (10) days of the date of the decision.
- (6) CDS are consumer-directed and the consumer shall be responsible, at a minimum, for the following:
- (A) Selection, hiring, training, and supervision of the consumer's personal care attendant (attendant);
 - (B) Preparation of biweekly time sheets, signed by both the consumer and the attendant, which shall be submitted to the vendor in a timely manner;
 - (C) Ensuring that units submitted for reimbursement do not exceed the amounts authorized by the CDS plan of care and/or those eligible for reimbursement through Medicaid;
 - (D) Promptly notifying DHSS and/or the vendor within ten (10) days of any changes in circumstances affecting the CDS plan of care and/or changes in the consumer's place of residence; and
 - (E) Prompt notification to the vendor regarding any problems resulting from the quality of services rendered by the attendant. Any problems not resolved with assistance from the vendor shall be reported to DHSS.
- (F) Allowing the vendor to comply with its quality assurance supervision process, which shall include, but not be limited to, annual face-to-face home visits and monthly case management activities.**
- (G) Report to the department significant changes in consumer's health and ability to self-direct care by contacting the vendor and/or DHSS.**
- (7) The needs of the consumer shall be reassessed and/or reevaluated at least annually by DHSS, and the amount of assistance authorized by DHSS shall be maintained, adjusted, or eliminated accordingly.

(8) A consumer's CDS may be discontinued or denied by DHSS in certain circumstances including, but not limited to, the following:

(A) DHSS and/or the vendor learns of circumstances that require the denial or closure of a consumer's case, including but not limited to, death, admission to a long-term care facility, consumer no longer needing services, and/or the inability of the consumer to self-direct his or her services;

(B) The consumer has falsified records, *[or]* committed fraud, **or provided false information to the department of his or her conditions, functional capacity or level of care during the assessment that resulted in an authorization of services not needed;**

(C) The consumer is noncompliant with the plan of care. Noncompliance requires persistent actions by the consumer or his or her family/representative which negate the services provided in the plan of care;

(D) The consumer or a member of the consumer's household threatens and/or abuses the attendant and/or vendor to the point where the staff's welfare is in jeopardy;

(E) The consumer's needs exceed available plan of care hours; and/or

(F) The attendant is not providing services as set forth in the CDS plan of care and attempts to remedy the situation have been unsuccessful.

(9) DHSS shall notify the consumer/applicant in writing regarding denial, reduction, or termination of CDS services.

(10) The consumer may request a hearing under the rules promulgated by DHSS. DHSS shall not suspend, reduce or terminate services provided to a consumer during this time period, unless the consumer requests in writing that services be suspended, reduced or terminated.

*AUTHORITY: sections 208.903, [208.906, 208.909,] 208.921, [208.924] and 208.927, RSMo 2016 [Supp. 2005]; and section 208.909, RSMo Supp. 2020. * This rule originally filed as 5 CSR 90-7.100. Original rule filed June 28, 2001, effective Jan. 30, 2002. Amended: Filed Sept. 12, 2003, effective April 30, 2004. Moved to 19 CSR 15-8.200, effective Aug. 29, 2005. Emergency amendment filed Dec. 15, 2005, effective Dec. 25, 2005, expired June 23, 2006. Amended: Filed Dec. 15, 2005, effective July 30, 2006. ***

**Original authority: 208.903, RSMo 2005; 208.906, RSMo 2005; 208.909, RSMo 2005; 208.921, RSMo 2005; 208.924, RSMo 2005; and 208.927, RSMo 2005.*