



ADMINISTRATIVE POLICY STATEMENT

Arkansas PASSE

Policy Name & Number	Date Effective
Relatives or Guardians as Paid Providers-AR PASSE-AD-1225	02/01/2025
Policy Type	
ADMINISTRATIVE	

Administrative Policy Statement prepared by CareSource and its affiliates are derived from literature based on and supported by clinical guidelines, nationally recognized utilization and technology assessment guidelines, other medical management industry standards, and published MCO clinical policy guidelines. Medically necessary services include, but are not limited to, those health care services or supplies that are proper and necessary for the diagnosis or treatment of disease, illness, or injury and without which the patient can be expected to suffer prolonged, increased or new morbidity, impairment of function, dysfunction of a body organ or part, or significant pain and discomfort. These services meet the standards of good medical practice in the local area, are the lowest cost alternative, and are not provided mainly for the convenience of the member or provider. Medically necessary services also include those services defined in any Evidence of Coverage documents, Medical Policy Statements, Provider Manuals, Member Handbooks, and/or other policies and procedures.

Administrative Policy Statements prepared by CareSource and its affiliates do not ensure an authorization or payment of services. Please refer to the plan contract (often referred to as the Evidence of Coverage) for the service(s) referenced in the Administrative Policy Statement. If there is a conflict between the Administrative Policy Statement and the plan contract (i.e., Evidence of Coverage), then the plan contract (i.e., Evidence of Coverage) will be the controlling document used to make the determination.

According to the rules of Mental Health Parity Addiction Equity Act (MHPAEA), coverage for the diagnosis and treatment of a behavioral health disorder will not be subject to any limitations that are less favorable than the limitations that apply to medical conditions as covered under this policy.

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A. Subject
Relatives or Guardians as Paid Providers

B. Background

Many factors impact the provision of services to members with complex care needs who receive long term services and supports (LTSS) or home and community-based services (HCBS), particularly the COVID-19 pandemic, which strained congregate care facilities and led to home-based care workforce shortages. States have expanded consumer direction programs over the past decades to allow members an alternative to institutionalization and payment to relatives and family members for providing care. Some of these program options assist in promoting equity and access to services in underserved communities and addressing growing workforce shortages.

Although Medicaid generally prohibits the hiring of legally responsible relatives as providers, states have discretion to allow payment to relatives for personal care services, including legally responsible relatives, spouses, and parents of minor children. State policies on the provision of HCBS services vary across states and by program populations served. Although HCBS services often allow relative providers (ie, self-direction option), state plan personal care services prohibit payment for services by a family member.

C. Definitions

- **Caregiver** – An individual who has responsibility for the protection, in-home care, or custody of a member as a result of assuming the responsibility by contract.
- **Direct Support Staff or Professional** – An individual paid to provide direct care services to a member.
- **Person-Centered Service Plan (PCSP)** – The total plan of care made in accordance with the 1915(c) waiver requirements for HCBS (42 C.F.R. § 441.301(c)) and 1915(i) state plan services (42 C.F.R. § 441.725).
- **Spouse** – An individual legally married under applicable law to a member.

D. Policy

I. General Provisions

- A. All providers, including relatives, are required to meet all Arkansas provider certification requirements, including training requirements and all Arkansas Medicaid enrollment requirements.
- B. Services provided must be according to the member's PCSP and any established benefit limits for that specific service.
- C. The provider on file with Arkansas Medicaid is the biller of services. The relative, guardian, or legally responsible paid individual is an employee of that provider and must adhere to rules for billing services according to provider policies and procedures and Arkansas Medicaid certification and enrollment requirements.
- D. Relatives, guardians, and legally responsible individuals who live in the home and provide natural support(s) to the member in the home setting should not

The ADMINISTRATIVE Policy Statement detailed above has received due consideration as defined in the ADMINISTRATIVE Policy Statement Policy and is approved.

provide more than 40 hours per week (7-day period) of support/care. More than 40 hours per week of care will be considered based on multiple factors, including, but not limited to, the following:

1. availability of nonrelative direct service providers
 2. number of hours of support needs
 3. availability of other appropriate services
- E. It is recommended that guardians use respite at least monthly.
- F. Providers employing relatives, guardians, and legally responsible individuals paid for care of a member must have a staffing backup plan in place for the member.
- G. Relatives, guardians, and legally responsible individuals cannot be paid to provide professional services to members (eg, registered nurses, licensed practical nurses, licensed mental health professionals).

II. Other Programs

A. Personal Care Services (PCS)

1. PCS services are provided in the member's home and, at the State's option, in another location by an individual qualified to provide such services who is not a member of the member's family, defined as:
 - a. a member's spouse
 - b. a minor's parent, stepparent, foster parent, or anyone acting as a minor's parent
 - c. legal guardian of the member
 - d. attorney-in-fact granted authority to direct the member's care
2. Travel time is not reimbursable if any other adult person accompanying (or driving) the member is a family member and is reasonably able to assist the member in transit if needed.

B. Private Duty Nursing (PDN) Services

The following family members, or persons acting as family members, cannot provide care to a member through the PDN program:

1. a spouse
2. a minor's parent or anyone acting as a minor's parent
3. a minor's guardian or anyone acting as a minor's guardian
4. an adult's guardian or anyone acting as an adult's guardian
5. anyone, regardless of relationship, who resides with the member

E. Conditions of Coverage

NA

F. Related Policies/Rules

Non-Medical Community Supports and Services
Person Centered Service Plans

G. Review/Revision History

DATE	ACTION
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Date Issued	8/31/2022	New policy.
Date Revised	07/19/2023	Annual review. Changed name to <i>Relatives or Guardians as Paid Providers</i> . Added D. I. D-I. Added PCSP as Related Policy. Approved at Committee.
	10/23/2024	Annual review. Edited D.I.D. Updated references. Removed Choices program information. Approved at Committee.
Date Effective	02/01/2025	
Date Archived		

H. References

1. Centers for Medicaid & Medicaid Services (CMS). State medicaid plans and waivers. Accessed October 1, 2024. www.cms.gov
2. Community and Employment Support Waiver, AR.0188.R06.01. Accessed October 1, 2024. www.humanservices.arkansas.gov
3. Home and community-based services authorities. US Dept of Health and Human Services. Accessed October 1, 2024. www.medicaid.gov
4. Person-Centered Service Plan. 42 C.F.R. § 441.540 (2022).
5. *Personal Care Provider Manual, Section II*. Arkansas Dept of Human Services. Accessed October 1, 2024. www.humanservices.ar.gov
6. *Private Duty Nursing Provider Manual, Section II*. Arkansas Dept of Human Services. Accessed October 1, 2024. www.humanservices.ar.gov

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