

STATE: MINNESOTA

ATTACHMENT 3.1-A

Effective: July 1, 2023

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TN: 23-22

Approved: November 7, 2023

Supersedes: 12-22 (10-05,09-28, 08-17,07-08,06-19,05-11(A),03-27,02-20)

26. Personal care services, continued, continued.

I. **Personal care services**

A. Personal care services include:

1. Assistance in **activities of daily living** including eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning;
2. Assistance in **health-related procedures and tasks** per state law including services that can be delegated or assigned by a licensed health care professional to be performed by a personal care assistant, under the supervision of a qualified professional or the direction of the recipient's physician. A licensed health care professional includes a registered nurse, physician, nurse practitioner, and physician assistant;
3. **Observation and redirection of behaviors;** and
4. Assistance in **instrumental activities of daily living** including meal planning and preparation; assistance with paying bills; shopping for food, clothing and other essential items; performing essential household tasks integral to personal care services; communication by telephone and other media; and traveling to medical appointments and to participate in the community. Traveling includes time to accompany the recipient according to the recipient's care plan.

B. Personal care services are provided as follows:

1. Personal care services are provided for recipients who live in their own home if their own home is not a hospital, nursing facility, intermediate care facility for persons with mental retardation (ICF/MR), institution for mental disease, or licensed health care facility.
2. Recipients may use approved units of personal care service outside the home when normal life activities take them outside the home.
3. Personal care services are provided to a recipient who is able to direct his or her own care or to a recipient for whom there is a **responsible party** if the recipient cannot direct his or her own care.
  - a. A **responsible party** is a person who:
    - i. is knowledgeable about the health care needs of the recipient and is able to effectively communicate those needs;
    - ii. provides the support necessary to assist the recipient to live in the community;
    - iii. is at least 18 years old;

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5. Written policies including employee policies, service delivery policies and grievance policies;
6. Copies of forms used for daily business;
7. Documentation of trainings staff are required to attend;
8. Documentation of completion of required training;
9. Documentation of the agency's marketing practices;
10. Disclosure of ownership, leasing, or management of all residential properties;
11. Documentation of completion of OHS mandatory training by owners, all managing employees, and qualified professionals.

C. Personal care provider agency general duties

1. Pay the staff based on actual hours of services provided
2. Withhold and pay all applicable federal and state taxes
3. Report all suspected neglect and abuse to the appropriate reporting center intake. ~~common entry point, which is an entity in each county serving as a 24 hour intake system for reports of potential abuse and maltreatment.~~
4. Provide the recipient with a copy of the Home Care Bill of Rights at start of service
5. Request reassessments at least 60 days prior to the end of the recipient's current authorization period.
6. Provide training for the personal care assistant based on the assessed needs of the recipient;
7. Provide training about care of a person who is ventilator- dependent, if appropriate.

D. Personal care provider agency criminal background studies

1. The following are required to have successfully completed criminal background studies:
  - a. owners who have a five percent interest or more
  - b. all managing employees as defined in 42 CFR §455.101
  - c. qualified professionals as defined on page 78y
  - d. personal care assistants

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26. Personal care services, continued

- a. The Personal Care Assistance Choice provider agency must ensure arms-length transactions without undue influence or coercion with the recipient and personal care assistant.
3. Under Personal Care Assistance Choice, qualified professionals must visit the recipient in the recipient's home at least once every 180 days, unless the recipient meets the exception criteria listed below in Section E. ~~These visits may be conducted remotely using telephonic or other electronic means.~~
4. Authorization to use the Personal Care Assistance Choice option will be denied, revoked, or suspended if:
  - a. the public health nurse or qualified professional, as defined below in F.1., determines that use of this option jeopardizes the recipient's health and safety;
  - b. the parties do not comply with the written agreement; or
  - c. the use of the option results in abusive or fraudulent billing.

**E. Qualified Professionals**

1. "Qualified professional" means the following professionals ~~as defined in Minnesota Statute § 256b.0625, subdivision 19c~~ employed by a personal care provider agency: a registered nurse, mental health professional, licensed social worker, or qualified developmental disability specialist.
2. A qualified professional performs the duties of training, supervision, and evaluation of the personal care assistance staff and evaluation of the effectiveness of personal care services. The qualified professional develops a care plan based on the service plan developed by the assessor.
3. Recipients or responsible parties utilizing either Personal Care Assistance Choice or personal care provider organizations must have qualified professional supervision of personal care assistants. Supervision may be conducted remotely if the recipient's primary health care provider has documented that remote supervision is appropriate due to the recipient's chronic health condition or severely compromised immune system.
4. Qualified professionals must report to the appropriate reporting center intake authorities any suspected abuse, neglect, or financial exploitation of the recipient.

**G. Personal Care Assistants**

1. Must be at least 18 years of age, except that a 16 or 17 year old may be a personal care assistant if they meet all of the requirements for the position, have supervision every 60 days, and are employed by only one personal care provider agency;

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