

Appendix G: Participant Safeguards

Appendix G-1: Response to Critical Events or Incidents

- a. **State Critical Event or Incident Reporting Requirements.** Specify the types of critical events or incidents (including alleged abuse, neglect and exploitation) that the State requires to be reported for review and follow-up action by an appropriate authority, the individuals and/or entities that are required to report such events and incidents and the timelines for reporting. State laws, regulations, and policies that are referenced are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

All service providers are mandatory reporters for abuse, neglect or exploitation and required to report these types of incidents in accordance with AS 47.17.010 for children and AS 47.24.010 for adults.

For incidents of abuse, neglect or exploitation in an assisted living home, service providers are required to report these incidents to the Division of Public Health, Certification and Licensing for Assisted Living homes pursuant to AS 47.24.013

In addition, other critical events and incidents should be reported in accordance with the Division of Senior and Disabilities Services Incident Report.

The types of critical events or incidents the State requires to be reported are:

- Death
- Serious Injury
- Missing persons
- Injury to others

Additionally, the CCMC waiver program requires reporting on the following:

- Inappropriate Restraint or Seclusion
- Medication Errors that result in hospitalization or other medical treatment
- Medical Emergencies
- Hospitalization
- Incidents involving law enforcement
- Attempted suicide
- A series of similar unusual incidents that may have an impact on the health, safety or welfare of an individual.
- Fire or natural disaster or mechanical failures at any place the recipient receives services that results in the relocation of the individual or the inability to provide services to the individual.
- Other Critical incidents (suspected abuse, neglect, exploitation; other unusual or significant incidents).

All care givers are required to report critical incidents of suspected abuse, neglect and exploitation of children to the Office of Children's Services in accordance with AS 47.17.010 or of adults to Adult Protective Services in accordance with AS 47.24.010 within 24 hours from discovery of the suspected abuse, neglect or exploitation.

- b. **Participant Training and Education.** Describe how training and/or information is provided to participants (and/or families or legal representatives, as appropriate) concerning protections from abuse, neglect, and exploitation, including how participants (and/or families or legal representatives, as appropriate) can notify appropriate authorities or entities when the participant may have experienced abuse, neglect or exploitation.

Participants and their families are provided training and information concerning protections from abuse, neglect and exploitation and who and how to notify authorities when a participant may have experienced abuse, neglect or exploitation in Family Waiver Training conducted by the Disability Law Center and the Center for Human Development with the Division of Senior and Disabilities Services program staff.

In addition, participants and their families on the CCMC waivers are provided training and information concerning protections from abuse, neglect and exploitation, who and how to notify authorities when a participant may have experienced abuse, neglect or exploitation at the time recipients are approved for the CCMC waiver program. This

training and information is provided to families or legal representatives by HCB agencies and by DSDS staff nurses. This information is also available on the Division’s web-site and periodically re-noticed during periodic home visits by DSDS staff nurses.

- c. **Responsibility for Review of and Response to Critical Events or Incidents.** Specify the entity (or entities) that receives reports of critical events or incidents specified in item G-1-a, the methods that are employed to evaluate such reports, and the processes and time-frames for responding to critical events or incidents, including conducting investigations.

Reports of harm to APS must be made within 24 hours from the time of the discovery of the incident and are investigated in accordance with their priority for individual’s health, safety and welfare. DSDS Program Specialists are apprised of these situations by APS staff for information or joint investigation.

In addition to being mandatory reporters for APS, HCB Agencies must provide the DSDS assurance that they have in place and implement policy and procedure that identifies and responds to critical incidents. The HCB Agencies respond to and review all reports of critical incidents, and, additionally are required to report death, serious injury, missing persons, and injury to others to the DSDS Program Staff.

Within 24 hours of receipt, DSDS Program Staff evaluate all critical incident reports they receive to determine if adequate response has occurred. They may conduct or coordinate an independent investigation or intervention if their evaluation identifies a need for further action.

Recipients, family and/or guardian are informed by DSDS program staff and/or care coordinator as to the disposition of each critical incident.

- d. **Responsibility for Oversight of Critical Incidents and Events.** Identify the State agency (or agencies) responsible for overseeing the reporting of and response to critical incidents or events that affect waiver participants, how this oversight is conducted, and how frequently.

For reports involving abuse, neglect or exploitation of vulnerable adults, the Department of Health and Social Services, Division of Senior and Disabilities Services Adult Protective Services Unit is responsible for oversight of the reporting of, and response to critical incidents or events that affect waiver recipients.

HCB Agencies and care coordinators are required to report critical incidents to the DSDS Program Staff. The DSDS Program Staff are responsible for the oversight of the reporting of and response to critical incidents or events that affect waiver recipients. All reports of critical incidents are reviewed immediately upon receipt to ensure adequate response is occurring or coordinate an intervention as necessary. Typically, the necessary action is completed or underway at the HCB Agency level by the time the report is made to the DSDS Program Specialist.

DSDS Program Staff immediately refer critical incident reports to the Division’s Quality Assurance Unit as situations require coordination of DSDS resources to investigate and intervene. Additionally, reports of critical incidents are provided routinely to the QA Unit. The QA Unit summarizes critical incident data at least quarterly to the Quality Improvement Workgroup to determine if corrective action is needed and quarterly to the Quality Improvement Steering Committee for consideration of systemic improvements.

Appendix G: Participant Safeguards

Appendix G-2: Safeguards Concerning Restraints and Restrictive Interventions (1 of 2)

- a. **Use of Restraints or Seclusion.** *(Select one):*

- The State does not permit or prohibits the use of restraints or seclusion**

Specify the State agency (or agencies) responsible for detecting the unauthorized use of restraints or seclusion and how this oversight is conducted and its frequency:

- The use of restraints or seclusion is permitted during the course of the delivery of waiver services.**

Complete Items G-2-a-i and G-2-a-ii.

- i. **Safeguards Concerning the Use of Restraints or Seclusion.** Specify the safeguards that the State has established concerning the use of each type of restraint (i.e., personal restraints, drugs used as restraints, mechanical restraints or seclusion). State laws, regulations, and policies that are referenced are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Safeguards concerning the use of Restraints or Seclusion:

The health and safety of the recipient will be first and foremost in employing the administration of personal restraints or seclusion. To ensure the health and safety of recipients, personal restraints (i.e. holds) may be utilized in accordance with AS 47.33.330, 7 AAC 75.205, 12 AAC 44.950-970, and 7 AAC 43. State of Alaska Inpatient Quality Standards for Division Of Behavior Health Services (RS 7.0), Child Protection Services Administrative Manual, Chapter 6.0, Section 6.1.15 and 7 AAC 43.990-1110 Home and Community Based Services.

HCB Agencies delivering HCB Waiver services in licensed settings (assisted living homes and licensed foster care homes) shall have a written procedure regarding the use of physical restraints that, must be approved by the licensing agency under AS 47.33 300 and AS 47.33.330. Individualized positive behavioral support plans include a policy for the use of restraints may also be developed as a component of the recipient's Plan of Care and tailored for each specific recipient receiving services.

The use of time-out interventions and physical restraints may be implemented if a recipient's actions present an imminent danger to the recipient, or others, as identified by any member of the recipient's interdisciplinary treatment team or the direct service provider, but only after other interventions have failed. A time-out or physical restraint may not be used as a punishment, as a substitute for a less restrictive form of intervention, or as a convenience for the staff. A time out or physical restraint must be terminated as soon as the resident no longer presents an imminent danger to that resident or others.

The provider serving a CCMC recipient shall perform a comprehensive functional assessment as part of the Plan of Care assessment regarding the use of time outs or physical restraints that includes a description of the recipient's behavior that might indicate a need for the use of time outs or physical restraint and to help minimize the use of time outs or physical restraint.

Recipients or their legal representative have the right to participate in the development of the restraint plan and can present grievances and recommendations for change to the provider.

An individualized positive behavioral support plan that includes restraints or seclusion will be developed by the recipient, the parents, guardian and/or legal representative, recipient's care givers and other interdisciplinary team members. The plan will include information regarding 1) consent; 2) when time outs or physical restraints should be used; 3) who can authorize the specified intervention; 4) what forms of physical restraints should be used; 5) how long the intervention should be in place; and 6) any pre-notification procedures requested by the recipient's representative. An individualized positive behavioral support plan that includes restraints or seclusion for CCMC recipients must be approved by the primary physician, the parent/legal guardian, and the Division of Senior and Disabilities Services.

- ii. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for overseeing the use of restraints or seclusion and ensuring that State safeguards concerning their use are followed and how such oversight is conducted and its frequency:

State agencies, HCB Agencies, the recipient's interdisciplinary treatment team, including the various health care professionals and therapists serving the recipient on a day-to-day basis, are responsible for overseeing the use of restraints or seclusion and ensuring that state safeguards concerning their use are followed. For the CCMC waiver program, DSDS staff nurses also monitor and review the use of restraints as part of the quarterly and annual reviews. DSDS staff nurses also conduct an on-site review of all (100%) CCMC recipients at least every three years during which the use of restraints is reviewed and evaluated to ensure appropriate use. DSDS staff nurses also provide technical assistance and training as requested or needed. Corrective actions are documented in the DSDS Nurse technical assistance plan. Abuses of restraints will be reported to appropriate authorities and treated as an APS or OCS complaint.

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APPENDIX G - SAFEGUARDS CONCERNING RESTRICTIVE INTERVENTIONS
(2 of 2)

b. Use of Restrictive Interventions. (Select one):

- The State does not permit or prohibits the use of restrictive interventions

Specify the State agency (or agencies) responsible for detecting the unauthorized use of restrictive interventions and how this oversight is conducted and its frequency:

- The use of restrictive interventions is permitted during the course of the delivery of waiver services

Complete Items G-2-b-i and G-2-b-ii.

- i. **Safeguards Concerning the Use of Restrictive Interventions.** Specify the safeguards that the State has in effect concerning the use of interventions that restrict participant movement, participant access to other individuals, locations or activities, restrict participant rights or employ aversive methods (not including restraints or seclusion) to modify behavior. State laws, regulations, and policies referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency.

Other Restraints of Movement

The use of all restrictive interventions is described in (b)(i). and (b)(ii).

- ii. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for monitoring and overseeing the use of restrictive interventions and how this oversight is conducted and its frequency:

State oversight responsibilities for all restrictive interventions are specified in (b)(ii).

Appendix G: Participant Safeguards

Appendix G-3: Medication Management and Administration (1 of 2)

This Appendix must be completed when waiver services are furnished to participants who are served in licensed or unlicensed living arrangements where a provider has round-the-clock responsibility for the health and welfare of residents. The Appendix does not need to be completed when waiver participants are served exclusively in their own personal residences or in the home of a family member.

a. **Applicability.** Select one:

- No. This Appendix is not applicable (do not complete the remaining items)
- Yes. This Appendix applies (complete the remaining items)

b. **Medication Management and Follow-Up**

- i. **Responsibility.** Specify the entity (or entities) that have ongoing responsibility for monitoring participant medication regimens, the methods for conducting monitoring, and the frequency of monitoring.

Responsibility for monitoring participant medication regimens for the CCMC Waiver is held by parents/guardians or other direct family members, licensed health care providers including physicians, pharmacists, nurses. If the recipient is in state custody, a state guardian is responsible for monitoring recipient medication regimens. For recipients in licensed facilities, the facility is responsible for monitoring recipient medication regimens.

Prescribing entities are responsible for the administration and monitoring all medication regimens as set forth in AS 08.80 and 12 AAC 52.

The delegation of the administration of medication must also be conducted in accordance with 12 AAC 44.965. Licensed facilities must follow medication requirements set forth in AS 47.33.020 and 7 AAC 10.645.

The Division of Senior and Disabilities Services Program Specialists review medication regimens as a component of the Plan of Care at least annually and during periodic on-site recipient visits. This review includes an evaluation to ensure medications are consistent with the recipient's diagnoses and fits with the recipient's condition.

Care Coordinators are responsible for monitoring the recipient's circumstances, including medication regimens, during monthly care coordination visits with the recipient. The results of which may be discussed during monthly technical assistance meetings with DSDS staff nurses.

HCB Agency Nurses monitor medication regimens as a component of their quarterly monitoring visits and an annual review and this information is reported to DSDS staff nurses. DSDS staff nurses review the quarterly monitoring reports and annual review on an on-going basis.

- ii. **Methods of State Oversight and Follow-Up.** Describe: (a) the method(s) that the State uses to ensure that participant medications are managed appropriately, including: (a) the identification of potentially harmful practices (e.g., the concurrent use of contraindicated medications); (b) the method(s) for following up on potentially harmful practices; and, (c) the State agency (or agencies) that is responsible for follow-up and oversight.

The State ensures that participant medications are managed appropriately by initially reviewing the medications described in the Plan of Care to identify contraindications, alternative therapies or potential harmful practices. For the CCMC Waiver, the Plan of Care includes a medication administration component with the training checklist and a corresponding Intensive Active Treatment Plan. DSDS staff nurses review and monitor 100% of these submissions to identify contraindications, alternative therapies or potential harmful practices.

DSDS staff nurses are responsible for follow-up and remediation on potentially harmful practices by directly contacting the medical team and caregivers. The DSDS staff nurses may convene a Team Planning Conference to coordinate medication and medical treatment.

Problems identified with nursing delegation of facility medication requirements are referred to the Nursing Board in the Division of Occupational Licensing and to the Division of Public Health Certification and Licensing.

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Appendix G-3: Medication Management and Administration (2 of 2)

c. Medication Administration by Waiver Providers

i. Provider Administration of Medications. *Select one:*

- Not applicable.** *(do not complete the remaining items)*
 - Waiver providers are responsible for the administration of medications to waiver participants who cannot self-administer and/or have responsibility to oversee participant self-administration of medications.** *(complete the remaining items)*
- ii. **State Policy.** Summarize the State policies that apply to the administration of medications by waiver providers or waiver provider responsibilities when participants self-administer medications, including (if applicable) policies concerning medication administration by non-medical waiver provider personnel. State laws, regulations, and policies referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

State regulations that apply to the administration of medications by providers or waiver provider responsibilities when a participant self-administers medications are set forth in 12 AAC 44.950 – 12 AAC 44.970, delegation of medication to un-licensed assistive personnel.

State policies for self administration of medications allow these personnel to perform the following tasks:

1. reminding the recipient to take medication;
2. opening a medication container or pre-packaged medication for a recipient;
3. reading a medication label to a recipient;
4. observing a recipient while the recipient takes medication;
5. checking a recipient self-administered dosage against the label of the medication container;
6. re-assuring a recipient that the recipient is taking the dosage as prescribed; and
7. directing or guiding, at the request of the recipient, the hand of a recipient who is administering his/her own medications.

iii. Medication Error Reporting. *Select one of the following:*

- Providers that are responsible for medication administration are required to both record and report medication errors to a State agency (or agencies).**

Complete the following three items:

- (a) Specify State agency (or agencies) to which errors are reported:

Providers are responsible reporting medication errors to the prescribing physician and to DSDS staff nurses in a Critical Incident Report and in the quarterly and annual HCB Agency nursing reports.

- (b) Specify the types of medication errors that providers are required to *record*:

All medication errors must be recorded in the recipient's record.

- (c) Specify the types of medication errors that providers must *report* to the State:

- All medications errors must be recorded and reported to the DSDS staff nurses quarterly and annually.
- Medication Errors that result in hospitalization or other medical treatment must be immediately reported to DSDS staff nurses as a Critical Incident Report.

- Providers responsible for medication administration are required to record medication errors but make information about medication errors available only when requested by the State.**

Specify the types of medication errors that providers are required to record:

- iv. State Oversight Responsibility.** Specify the State agency (or agencies) responsible for monitoring the performance of waiver providers in the administration of medications to waiver participants and how monitoring is performed and its frequency.

For the CCMC waiver, DSDS staff nurses are responsible for monitoring waiver providers in the administration of medications. DSDS staff nurses review medication errors on an on-going basis and implement corrective actions, which may include the provision of training.

The licensing agency is responsible for monitoring the administration of medications for licensed providers.