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State/Territory Name: Alabama

State Plan Amendment (SPA) #:15-0004

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Atlanta Regional Office
61 Forsyth Street, Suite 4T20
Atlanta, Georgia 30303



DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS

December 10, 2015

Ms. Stephanie Azar, Commissioner
Alabama Medicaid Agency
501 Dexter Avenue
Post Office Box 5624
Montgomery, Alabama 36103-5624

Attention: Stephanie Lindsay

Re: Title XIX State Plan Amendment, AL-15-0004

Dear Ms. Azar:

The Centers for Medicare & Medicaid Services (CMS) Atlanta Regional Office has completed its review of Alabama State Plan Amendment (SPA) Transmittal Number 15-0004. This SPA expands Alabama's 1915(j) Personal Choices program statewide for all HCBS waivers. This SPA was submitted on September 25, 2015.

This SPA was approved on December 8, 2015, with an effective date of October 1, 2015. The approved plan pages and CMS 179 form are included with this letter.

If you have any questions concerning this amendment or require further assistance, please contact Alice Hogan at (404) 562-7432 or Alice.Hogan@cms.hhs.gov.

Sincerely,

//s//

Jackie Glaze
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: AL-15-0004	2. STATE Alabama
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: HEALTH CARE FINANCING ADMINISTRATION	4. PROPOSED EFFECTIVE DATE October 1, 2015	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		

5. TYPE OF PLAN MATERIAL (*Check One*):

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 430 Subpart B	7. FEDERAL BUDGET IMPACT: a. FFY 2015 0 b. FFY 2016 0
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Supplement 2 to Attachment 3.1-A, Pages 1-18	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Supplement 2 to Attachment 3.1-A, Pages 1- 18

10. SUBJECT OF AMENDMENT:

The primary purpose for this amendment is to expand the Personal Choices Program (1915j) statewide for all of Alabama's HCB Waivers. Currently Personal Choices is available through the Elderly & Disabled Waiver and the State of Alabama Independent Living Waiver within the approved pilot areas. The only waiver that presently has the Personal Choices option available statewide is the Alabama Community Waiver.

11. GOVERNOR'S REVIEW (*Check One*):

- GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Governor's designee on file
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL via letter with CMS

12. SIGNATURE OF STATE AGENCY OFFICIAL: //s//	16. RETURN TO: Stephanie McGee Azar Acting Commissioner Alabama Medicaid Agency 501 Dexter Avenue Post Office Box 5624 Montgomery, Alabama 36103-5624
13. TYPED NAME: Stephanie McGee Azar	
14. TITLE: Acting Commissioner	
15. DATE SUBMITTED:	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 09-25-15	18. DATE APPROVED: 12-08-15
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: 10-01-15	20. SIGNATURE OF REGIONAL OFFICIAL: //s//
21. TYPED NAME: Jackie Glaze	22. TITLE: Associate Regional Administrator Division of Medicaid & Children Health Opns

23. REMARKS:

Effective Date: 10/01/15

Notwithstanding anything else in this State Plan provision, the coverage will be subject to such other requirements that are promulgated by CMS through interpretive issuance or final regulation.

**State of Alabama
Self-Directed Personal Assistance Services State Plan Amendment**

i. Eligibility

The State determines eligibility for Self-Directed Personal Assistance Services:

- A. _____ In the same manner as eligibility is determined for traditional State Plan personal care services, described in Item 24 of the Medicaid State Plan.
- B. X In the same manner as eligibility is determined for services provided through a 1915(c) Home and Community-Based Services Waiver.

ii. Service Package

The State elects to have the following included as Self-Directed Personal Assistance Services:

- A. _____ State Plan Personal Care and Related Services, to be self-directed by individuals eligible under the State Plan.
- B. X Services included in the following Section 1915(c) Home and Community-Based Services waiver(s) to be self directed by individuals eligible under the waiver(s). The State assures that all services in the impacted waiver(s) will continue to be provided regardless of service delivery model. Please list waiver names and services to be included.

The following are the 1915(c) Home and Community-Based Waiver Services to be self-directed:

Elderly and Disabled Waiver: Personal Care, Homemaker, Unskilled Respite, and Companion.

State of Alabama Independent Living Waiver: Personal Care and Personal Assistance

Alabama Community Transition Waiver: Personal Care, Homemaker, Unskilled Respite, and Companion

Technology Assisted Waiver for Adults: Personal Care/Attendant

HIV/AIDS Waiver: Personal Care, Homemaker, Unskilled Respite, and Companion

iii. Payment Methodology

 X The State will use the same payment methodology for individuals self-directing their PAS under section 1915(j) than that approved for State plan personal care services or for section 1915(c) Home and Community-Based waiver services.

- A. _____ The State will use a different payment methodology for individuals self-directing their PAS under section 1915(j) than that approved for State plan personal care services or for section 1915(c) Home and Community-Based waiver services. Amended Attachment 4.19-B page(s) are attached.

iv. Use of Cash

- A. X The State elects to disburse cash prospectively to participants self-directing personal assistance services. The State assures that all Internal Revenue Service (IRS) requirements regarding payroll/tax filing functions will be followed, including when participants perform the payroll/tax filing functions themselves.
- B. _____ The State elects not to disburse cash prospectively to participants self-directing personal assistance services.

v. Voluntary Disenrollment

The State will provide the following safeguards in place to ensure continuity of services and assure participant health and welfare during the period of transition between self-directed and traditional service delivery models.

A program participant may elect to discontinue participation in the *Personal Choices* program at any time.

The following procedures serve as safeguards to ensure that the reasons for disenrollment are not related to abuse or similar concerns and that services are not interrupted during the transfer from *Personal Choices* to the participant's traditional waiver program.

It is the responsibility of the participant to initiate voluntary disenrollment by notifying his/her Counselor of such a decision. The participant may notify the Counselor of his/her desire to disenroll by phone or e-mail. The Counselor will document in the participant's record, the date of notification by the participant of their decision to disenroll. The Counselor will begin the disenrollment process within **10** business days from the date of notification. A face-to-face contact is required to discuss the following:

- To provide an opportunity for the Counselor to determine if the participant's health, safety, and welfare has been jeopardized during their enrollment.
- To minimize unnecessary disenrollment if the Counselor can identify and resolve any problems that would enable continued enrollment and satisfaction with the program or confirm that the reasons for disenrollment cannot be resolved.
- To obtain the signature of the participant to attest to his desire to disenroll.

- To explain the processes and timeline for transfer back to the traditional service delivery option.
- To ascertain the participant's choice of direct service providers.
- To discuss the conversion of the individual budget back to traditionally authorized services and make necessary decisions related to accumulated funds.

From the receipt of the request for voluntary disenrollment, the timeline for transfer from *Personal Choices* to the traditional waiver, when the participant's health and safety is not in jeopardy, may be from fifteen to forty-five days. The Counselor will have 10 days to begin the process of disenrollment and the transition to the traditional waiver program. The timeline may be extended up to 45 days if requested by the participant.

Personal Choices services will continue until transition to the traditional waiver is complete unless there is an immediate health, danger or safety issue.

Once disenrolled, the participant must continue to receive traditional waiver services for a minimum of three months before re-enrollment in *Personal Choices* can be considered.

vi. Involuntary Disenrollment

- A. The circumstances under which a participant may be involuntarily disenrolled from self-directing personal assistance services, and returned to traditional service delivery model are noted below.

At any time that it is determined that the health, safety and well-being of the participant is compromised by continued participation in the *Personal Choices* program, the participant may be returned to the traditional waiver program. Participants will be given an advance notice in writing of their return to the traditional waiver service. Although the decision to involuntarily disenroll the participant from the *Personal Choices* program may be appealed, the participant will begin to receive traditional waiver services until a decision is made on their appeal. In order to appeal, the participant/representative must follow the approved waiver appeal policies and procedures.

Program participants may be involuntarily disenrolled from the program for the following reasons:

1. Health, Safety and Well-being

At any time that the Counselor, the waiver case manager, or the Operating Agencies determine that the health, safety and well-being of the program participant is compromised or threatened by continued participation in the *Personal Choices* program, the participant will be disenrolled.

2. Change in Condition

If the participant's ability to direct his/her own care diminishes to a point where they can no longer do so and there is no responsible representative available to direct the care, then the individual will be involuntarily disenrolled from the program.

3. Misuse of Monthly Allocation

If the *Personal Choices* participant/representative choose the cash option and uses the monthly budgeted allocation to purchase items unrelated to personal care needs, fail to pay the salary of an employee, or fail to pay related state and federal payroll taxes, the participant/representative will receive a written warning notifying them that exceptions to the agreed upon conditions of participation are not allowed. The participant will be permitted to remain on the *Personal Choices* program, but expenditures will be monitored and reviewed closely by the Counselor and/or the Financial Management Services Agency (FMSA) to ensure the funds are being expended appropriately. The participant/representative will be notified in writing that further failure to misuse funds allocated through the *Personal Choices* program will result in involuntary disenrollment from the program.

4. Under-utilization of Budget Allocation

The FMSA is responsible for monitoring on a monthly basis the use of funds received on behalf of program participants. If the participant is under-utilizing the monthly allocation or is not using the allocation according to their Personal Support Plans, the FMSA and Counselor will discuss the issues of utilization with the participant/representative. If the health and safety of the participant may be in jeopardy because of the under-utilization of the budget allocation, the participant will be returned to traditional waiver services.

5. Failure to Provide Required Documentation

If a program participant/representative fails to provide required documentation of expenditures and related items as prescribed in the *Personal Choices Roles and Responsibility* tool, a written reminder will be sent from the FMSA to the participant/representative. If the participant/representative continues to fail to provide required documentation after a written notice is given, the individual will be disenrolled from the program.

The participant/representative will receive written advance notification of disenrollment and the reasons for the actions. After disenrollment, the participant/representative cannot utilize funds allocated by the *Personal Choices* program.

- B. The State will provide that the following safeguards are in place to ensure continuity of services and assure participant health and welfare during the period of transition between self-directed and traditional service delivery models.

A program participant may be involuntarily disenrolled as a participant in the *Personal Choices* program if the circumstances specified by the State occur. It is the responsibility of the Counselor to notify the waiver case manager immediately when the participants' health and safety may be jeopardized by their continued enrollment in the *Personal Choices* program. The Counselor will begin the disenrollment process as soon as practicable to ensure the health and safety of the participant and a seamless transition to the traditional waiver.

The waiver case manager must ensure that traditional services are reinstated prior to the discontinuance of the *Personal Choices* program. The waiver case manager will perform a re-assessment of the participant's level of care needs in order to resolve any identified health and safety issues.

The Counselor and waiver case manager work together to gather the following information in support of the involuntary disenrollment of the participant:

- The extent of the health and safety issue which necessitates the need for involuntary disenrollment
- To identify and resolve any problems that may enable continued enrollment or confirm that the reasons for involuntary disenrollment cannot be resolved
- To obtain the participant's signature acknowledging that they understand that they will no longer be participating in the *Personal Choices* program
- To explain the processes and timeline for transfer back to the traditional waiver program
- To determine the participant's choice of direct service provider agencies
- To discuss the conversion of the individual budget back to the traditional waiver services and make necessary decisions related to accumulated funds

Personal Choices services will continue until transition to the traditional waiver is complete.

Once disenrolled, the participant must continue to receive traditional waiver services for a minimum of three months before re-enrollment in *Personal Choices* can be considered. The Counselor and Case Manager inform the participants about the difference of being terminated from the waiver and involuntarily disenrolled from *Personal Choices* and how to appeal. *Personal Choices* participants follow the approved waiver appeal policies and procedures.

vii. Participant Living Arrangement

Any additional restrictions on participant living arrangements, other than homes or property owned, operated, or controlled by a provider of services, not related by blood or marriage to the participant are noted below.

The State places no additional restrictions on participant living arrangements.

viii. Geographic Limitations and Comparability

- A. X The State elects to provide self-directed personal assistance services on a statewide basis.
- B. The State elects to provide self-directed personal assistance services on a targeted geographic basis. Please describe:
- C. The State elects to provide self-directed personal assistance services to all eligible populations.
- D. The State elects to provide self-directed personal assistance services to targeted populations. .

To be eligible for *Personal Choices*, the individual must:

- Be currently enrolled in either the E&D, SAIL, TA, HIV/AIDS or the ACT waiver and meet the medical and financial requirements for participation in those waivers
-

To be a participant in *Personal Choices*, the individual/representative must:

- Give informed consent to participate
 - Be able to understand the rights, risks, and responsibilities of managing their own care or if unable to make decisions independently have a willing representative who understands the rights, risks and responsibilities of managing the care of the participant with a cash allowance
 - Be willing to complete a Personal Support Plan with the help of a counselor.
- E. X The State elects to provide self-directed personal assistance services to an unlimited number of participants.
- F. The State elects to provide self-directed personal assistance services to (insert number of) participants, at any given time.

ix. Assurances

- A. The State assures that there are traditional personal assistance services, comparable in amount, duration and scope, to self-directed personal assistance services.
- B. The State assures that there are necessary safeguards in place to protect the health and welfare of individuals provided services under this State Plan Option, and to assure financial accountability for funds expended for self-directed personal assistance services.
- C. The State assures that an evaluation will be performed of participants' need for personal assistance services for individuals who meet the following requirements:
- i.* Are entitled to medical assistance for personal care services under the Medicaid State Plan; or
 - ii.* Are entitled to and are receiving home and community-based services under a Section 1915(c) waiver; or
 - iii.* May require self-directed personal assistance services; or
 - iv.* May be eligible for self-directed personal assistance services.

- D. The State assures that individuals are informed of all options for receiving self-directed and/or traditional State Plan personal care services or personal assistance services provided under a Section 1915(c) waiver, including information about self-direction opportunities that is sufficient to inform decision-making about the election of self-direction and provided on a timely basis to individuals or their representatives.
- E. The State assures that individuals will be provided with a support system meeting the following criteria:
- i.* Appropriately assesses and counsels individuals prior to enrollment;
 - ii.* Provides appropriate counseling, information, training and assistance to ensure that participants are able to manage their services and budgets;
 - iii.* Offers additional counseling, information, training or assistance, including financial management services:
 - 1. At the request of the participant for any reason; or
 - 2. When the State has determined the participant is not effectively managing their services identified in their service plans or budgets.
- F. The State assures that an annual report will be provided to CMS on the number of individuals served through this State Plan Option and total expenditures on their behalf, in the aggregate.
- G. The state assures that an evaluation will be provided to CMS every three years, describing the overall impact of this State Plan Option on the health and welfare of participating individuals, compared to individuals not self-directing their personal assistance services.
- H. The State assures that the provisions of Section 1902(a)(27) of the Social Security Act, and Federal regulations 42 CFR 431.107, governing provider agreements, are met.
- I. The State assures that a service plan and service budget will be developed for each individual receiving self-directed PAS. These are developed based on the assessment of needs.
- J. The State assures that the methodology used to establish service budgets will meet the following criteria:
- i.* Objective and evidence based.
 - ii.* Applied consistently to participants.
 - iii.* Open for public inspection.
 - iv.* Includes a calculation of the expected cost of the self-directed PAS and supports if those services and supports were not self-directed.

- v. Includes a process for any limits placed on self-directed services and supports and the basis/bases for the limits.
- vi. Includes any adjustments that will be allowed and the basis/bases for the adjustments.
- vii. Includes procedures to safeguard participants when the amount of the limit on services is insufficient to meet a participant's needs.
- viii. Includes a method of notifying participants of the amount of any limit that applies to a participant's self-directed PAS and supports.
- ix. Does not restrict access to other medically necessary care and services furnished under the plan and approved by the State but not included in the budget.

x. Service Plan

The State has the following safeguards in place, to permit entities providing other Medicaid State Plan services to be responsible for developing the self-directed personal assistance services service plan, to assure that the service provider's influence on the planning process is fully disclosed to the participant and that procedures are in place to mitigate that influence.

The State delegates the responsibility for developing the self-directed personal assistance service plan to the counselors employed by the designated Operating Agency and does not delegate any portion of that authority to any other Medicaid State Plan service provider.

xi. Quality Assurance and Improvement Plan

The State's quality assurance and improvement plan is described below, including:

- i. How it will conduct activities of discovery, remediation and quality improvement in order to ascertain whether the program meets assurances, corrects shortcomings, and pursues opportunities for improvement; and
- ii. The system performance measures, outcome measures and satisfaction measures that the State will monitor and evaluate.

Personal Choices has been designed to promote quality in operations. The Center for Medicare/Medicaid Services' (CMS) Quality Framework is the cornerstone for monitoring and improving the quality of the program. The CMS Quality Framework focuses on a participant-centered foundation that supports access, choice, and the health and safety of the participant.

Design Elements of the Quality Management Plan for *Personal Choices*

Accountability

The Alabama Medicaid Agency will maintain administrative oversight responsibilities for the Quality Management Plan. The Alabama Department of Senior Services (ADSS) and the Alabama Department of Rehabilitation Services (ADRS) will be responsible for the actual management of quality activities defined in the plan.

The ADSS and ADRS will maintain primary oversight of the following activities and will:

- Monitor the Counselor/FMSA to the degree necessary to ensure compliance with participant direction of their care and appropriate fiscal and programmatic procedures
- Identify modifications and apply edits to the *Personal Choices* data system to create reports, prevent erroneous billing and allow a continual system of review
- Provide support to the Counselor and FMSA to enable effective training.
- Direct quality assurance activities.
-

Each of the stakeholders also has an integral role to play in quality management. These include the participant, the participant's employees, the Counselor and the FMSA as well as the administering and Operating Agencies.

Quality Improvement Committee

The Quality Improvement Committee (QIC) will monitor all aspects of quality in the *Personal Choices* program. The QIC members consist of Medicaid and Operating Agency staff. This committee will set performance indicators, review program operations and results make recommendations for program changes and develop strategies for program improvement.

TN No. AL-15-0004

Supersedes

TN No. AL-11-005

Approval Date: 12-08-15

Effective Date: 10/01/15

Education and Training

Counselors are required to receive comprehensive, competency-based training from ADSS and ADRS staff or a designee. Once trained, the Counselor will provide a comprehensive, competency-based training to all participants/representative before the individual budget is developed. Outreach and participant/representative education activities will also be provided on an as needed basis.

Training materials will be developed and modified as needed, based upon the participant's level of competency. The Quality Improvement Committee will review training materials and revise as indicated.

Discovery Elements of the Quality Management Plan for *Personal Choices*

Accountability

ADSS and ADRS will monitor all aspects of the *Personal Choices* program to assure compliance with the program requirements. The Operating Agencies will conduct participant surveys to monitor the level and quality of participant direction and the adequacy of the training curriculum to enable successful participant direction. ADSS and ADRS will respond to possible quality problems identified through any channel by establishing a Project Team to examine the available data, study the work process in question, and develop a corrective action plan. The Project Team will include a representative from the Medicaid Agency Long Term Care Quality Review Unit. ADSS and ADRS, along with the Project Team will monitor implementation of changes and subsequent data collection to determine whether problems have been resolved. Program changes will be reviewed during the quality meeting with the Operating Agencies.

Performance Indicators

The Performance Indicators will be used to measure program performance that may occur at the service or provider level. The Performance Indicators are the tools utilized to monitor and track program activities and processes to ensure that participant choice and satisfaction in services and service delivery is achieved. The Performance Indicators are person-centered and focus on positive outcomes for the participants.

The Performance Indicator Reports will describe the results of data gathered using the Performance Indicators, the source of the data, the frequency in which the data is reviewed, and who assists in analyzing the data.

The Performance Indicator Reports will ensure the following key components:

- Enrollment processes are proceeding as planned.
- Enrollees receive their first allowance payment timely.
- Number of disenrollments are minimized.
- Costs of providing *Personal Choices* services are comparable with the cost of providing the EDW, SAIL, TA, HIV/AIDS and ACT Waiver services.
- Participants are satisfied with their care arrangements and paid caregivers
- Unmet needs of participants are provided through the program.
- Participants' health is not adversely affected

Remediation and Improvement Elements of the Quality Management Plan for *Personal Choices*

Incident Management and Abuse Prevention

The plan for the *Personal Choices* program is defined in policy and is the responsibility of the Operating Agencies. The procedures are consistent with current Alabama State law and reporting procedures. To further ensure the participants' health and safety, criminal background checks of providers at no cost to the participant will be required.

Operating Agency staff will be tasked with the review and management of incidents, complaints, or grievances on an ongoing basis and will follow established guidelines for reporting and follow-up as set forth by the Medicaid Agency. In addition, findings will be reported at the Operating Agencies quarterly quality meeting. Operating Agency staff will serve as the Incident Management Review team and will be tasked with the quarterly review of all incident reports. Operating Agency staff will develop recommendations or changes to the program, and monitor the program changes to ensure implementation.

All participants, family members, and Counselors will receive training in incident reporting and management before receiving or providing services. The core elements of the training will provide information on reporting abuse, neglect, and exploitation, how participants can report incidents, and to whom to report incidents.

xii. Risk Management

- A. The risk assessment methods used to identify potential risks to participants are described below.

Participant Protections

The *Personal Choices* program will provide participant protections to include: information to participants, participant training and skills assessment, counseling services, financial management services, development of emergency back-up plans, development of an incident reporting system and access to program staff. Participants are required to use counseling and financial management services in order to assume responsibility for their care and financial management. The Counselor will train, coach, and provide technical assistance to participants as needed. The training and technical assistance will help participants use the budget to effectively meet their care needs, avoid overspending as well as prevent the under-utilization of their allocated budget.

The FMSA, as the employer agent, will assist participants to pay their employees and assure compliance with state and federal labor and tax laws. The FMSA will provide a method of receiving funds from the state and making the funds available for the participants' budgets.

Orientation

An orientation to the *Personal Choices Participant Handbook* is required for all participants prior to the disbursement of the initial monthly budget. The intent of the orientation is to provide participants with the tools they need to effectively and safely manage their services. Counselors will be responsible for providing this mandatory training session for participants enrolled in the program. Participants will receive a program manual to provide additional information to support the training objectives.

During this orientation, risks are identified and risk mitigation plans are developed through the use of three primary tools: 1) the *Personal Choices Rights and Responsibilities*, 2) the *Self-Assessment* and 3) the *Risk Assessment Checklist*. In addition, participants are provided the *Personal Support Plan* tool, to assist them in identifying others resources who may be able to provide help and support and thereby also mitigate risk. One of the most important uses of this tool is in the development of a back-up plan but the tool may also be used to address other risk issues.

Back-up Plan

Personal Support Plans **must** include an emergency backup plan identifying the arrangements that have been made for the provision of services and/or supplies in the absence of critical planned services and supports. Each *Personal Choices* participant is required to develop a back-up plan as part of his Personal Support Plan. The back-up plan should describe the alternative service delivery methods that will be used under either of the following circumstances: 1) if the primary employees fail to report for work or otherwise cannot perform the job at the time and place required, 2) if the participant experiences a personal emergency, or 3) if there is a community-wide emergency (e.g., requiring evacuation). The personal emergency portion of the Back-up plan will allow the participant to identify circumstances that would cause an emergency for him based upon his unique needs. The back-up plan must also address ways to assure that the needs of the individual are met should an unexpected shortage of funds occur. The back-up plan should also address if the representative is no longer able to serve as the participant's representative. The Counselor must attest to the viability of the back-up plan before services can begin and the budget is released.

Case Managers and Counselors will discuss emergency protocol with the client prior to entry into the *Personal Choices* Program. In the event of a disaster, the *Personal Choices* participant will have access to assistance from the Alabama Emergency Management Agency (EMA). In the event of a disaster, Case Managers/Counselors will coordinate with EMA on all *Personal Choices* participants who are high risk or participants with special needs in order to assure that EMA has expedient access to the participant in a threatening situation.

Representatives

Participants may choose to manage their own personal support plans, or may appoint a representative to assist them. Counselors and outreach staff will provide and/or make available education and information to enable either model. All participants have the option of choosing one individual to act as a representative (friend, caregiver, family member, or other person) to assume budget and care management responsibilities.

Representatives may not work for the participant or be paid by the participant with monthly budget funds. Participants may also receive assistance with their *Personal Choices* responsibilities without appointing a friend, caregiver, family member, or other person as a representative, but these individuals cannot sign documents, speak for or otherwise act on behalf of the participant.

B. The tools or instruments used to mitigate identified risks are described below:

There are three levels of risk assessment used to identify potential risks to participants.

Level 1: HCBS Waiver Assessment

Participants in the *Personal Choices* program must be participants in the E&D, SAIL, TA, HIV/AIDS or ACT waivers. Therefore, prior to enrollment in the *Personal Choices* program, each participant will receive an HCBS waiver plan of care based on an assessment of need as determined by the HCBS Waiver Assessment tool that includes an identification of risks and potential mitigation strategies. The waiver case manager will continue to play a role in the participant's overall plan of care through the HCBS traditional waiver, and will continue to assess needs and risks as required by the respective waiver protocol.

Level 2: Orientation Self Assessment

All participants in *Personal Choices* must take part in an initial orientation prior to the release of the budget. This orientation begins with a self-assessment process, using three tools.

The first tool is the *Personal Choices Participant Handbook* which provides a detailed description of the roles and responsibilities of the participant in the program including a detailed description of the roles, responsibilities and support functions of the Counselor and FMSA. This document will be thoroughly reviewed with the participant and/or the representative to ensure that there is a clear understanding of the responsibilities related to the health and safety and mitigation of risks to be assumed by the participant.

The second tool is the *Self-Assessment*, which asks participants to indicate their understanding and ability to implement each of the roles and responsibilities detailed in the *Personal Choices Participant Handbook*. Depending on the responses, the Counselor and participant will formulate a plan for ensuring the participant can effectively manage each of the roles and responsibilities. Other potential strategies may include additional training and/or the use of an informal or formal representative.

The third tool is the *Risk Assessment Checklist*. This instrument lists many common risk factors, ranging from physical and cognitive disabilities to social issues such as isolation. For each identified risk, the participant is alerted to the nature of the potential risk and prompted with examples to develop a plan to mitigate that potential risk.

Level 3: Ongoing Monitoring by Counselor and FMSA

The Counselor will monitor the Personal Support Plan to ensure that participation in the program does not compromise the health and well being of the participant. The Counselor will initiate contacts to the participant as needed to monitor the quality of self-directed care, to provide support and assistance, and to assure that essential needs are met. These contacts will be conducted as needed, but not less than monthly during the first six months of participation.

The FMSA will document at least monthly amounts spent for each participant/representative receiving an allowance to assure that money is spent on appropriate items identified in the Personal Support Plan, or for items related to personal care needs when discretionary funds are spent. Monitoring may be performed more frequently whenever problems or potential problems are identified. Problems associated with the monthly allowance such as misuse or under-utilization of the funds, failure to pay assistants as required, failure to comply with applicable state and federal employer laws, failure to submit documentation of expenditures, theft of checks mailed to participant/representative or other problems will be reported in writing to the Operating Agencies immediately.

- C. The State's process for ensuring that each service plan reflects the risks that an individual is willing and able to assume, and the plan for how identified risks will be mitigated, is described below.

Individuals who choose to participate in the *Personal Choices* program will be provided with individualized supports to enable them to manage their own services to the largest extent possible.

These supports, and the manner in which they will be delivered, will be generated from a person-centered planning process facilitated by the Counselor utilizing the Self Assessment tool.

The participant/representative will develop a Personal Support Plan to specify how the monthly budget will be used to meet the participant's care needs, and how other identified needs might be met through generic and community supports. Information from the Self Assessment tool that takes place during orientation will serve as a primary source of information regarding potential risks and the plans that are developed to mitigate the risk. The results of this process will be documented in the service plan and updated annually or more frequently if needed.

- D. The State's process for ensuring that the risk management plan is the result of discussion and negotiation among the persons designated by the State to develop the service plan, the participant, the participant's representative, if any, and others from whom the participant may seek guidance, is described below.

Counselors will provide support for technical assistance in order to facilitate the development of the risk management plan by the participant/representative, if any, and others from whom the participant may seek guidance.

Counselors will not assume responsibility for developing the risk management plan, but will review and approve the plan to ensure that proposed services are adequate, purchases are cost-effective and related to the participant's needs, and that an emergency back-up Plan is in place. Additionally, the Counselor will assess the overall Personal Support Plan for potential risks and risk mitigation strategies. The Counselor reviews the proposed personal support plan with the participant/representative and others identified by the participant as a method to assess the participant/representative's ability to assume service management responsibilities and to further generate discussion around risk management.

xiii. Qualifications of Providers of Personal Assistance

- A. X The State elects to permit participants to hire legally liable relatives, as paid providers of the personal assistance services identified in the service plan and budget.
- B. The State elects not to permit participants to hire legally liable relatives, as paid providers of the personal assistance services identified in the service plan and budget.

xiv. Use of a Representative

- A. X The State elects to permit participants to appoint a representative to direct the provision of self-directed personal assistance services on their behalf.
- i. The State elects to include, as a type of representative, a State-mandated representative. Please indicate the criteria to be applied.
- B. The State elects not to permit participants to appoint a representative to direct the provision of self-directed personal assistance services on their behalf.

xv. Permissible Purchases

- A. X The State elects to permit participants to use their service budgets to pay for items that increase a participant's independence or substitute for a participant's dependence on human assistance.
- B. The State elects not to permit participants to use their service budgets to pay for items that increase a participant's independence or substitute for a participant's dependence on human assistance.

xvi. Financial Management Services

- A. X The State elects to employ a Financial Management Entity to provide financial management services to participants self-directing personal assistance services, with the exception of those participants utilizing the cash option and performing those functions themselves.
 - i.* The State elects to provide financial management services through a reporting or subagent through its fiscal intermediary in accordance with Section 3504 of the IRS Code and Revenue Procedure 80-4 and Notice 2003-70; or
 - ii.* X The State elects to provide financial management services through vendor organizations that have the capabilities to perform the required tasks in accordance with Section 3504 of the IRS Code and Revenue Procedure 70-6. (When private entities furnish financial management services, the procurement method must meet the requirements set forth Federal regulations in 45 CFR Section 74.40 – Section 74.48.)
 - iii.* The State elects to provide financial management services using “agency with choice” organizations that have the capabilities to perform the required tasks in accordance with the principles of self-direction and with Federal and State Medicaid rules.
- B. The State elects to directly perform financial management services on behalf of participants self-directing personal assistance services, with the exception of those participants utilizing the cash option and performing those functions themselves.