

OMB Approved 0938-1024

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: ARKANSAS

1915(j) Self-Directed Personal Assistance Services

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.

i. Eligibility

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

- A. X 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. X 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.

ElderChoices – Adult Companion Services

ElderChoices – Homemaker Services

iii. Payment Methodology

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

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iii. Payment Methodology (Continued)

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- B. X The State will use a different reimbursement 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 to ensure continuity of services and assure participant health and welfare during the period of transition between self-directed and traditional service delivery models.

When the participant voluntarily elects to discontinue participation in IndependentChoices, the counselor will discuss with the individual the reason for disenrollment and assist the individual in resolving any barriers or problems that may exist in preventing continuation. If the participant wishes to continue with the option to disenroll, the counselor will assist by informing **the participant** of traditional agency personal care providers in the participant's area. **The counselor will assist with the coordination of agency services to the degree requested by the participant.**

IndependentChoices can continue until agency services are established or the participant may elect to use informal supports until agency services are established.

The timeframes discussed under involuntary disenrollment do not apply to voluntary disenrollment. The request of the participant will be honored whether they ask to be disenrolled immediately or at anytime in the future. **The counselor will coordinate the participant's wishes to the degree requested by the participant. This may include self-advocacy by the participant and asking the counselor to coordinate agency services with the participant's preferred provider. In some instances the participant may wish to forego agency personal assistance services and choose to rely on family or friends. If the participant requests that the counselor coordinate the agency services the counselor will ascertain when services can be started. The counselor will then close the IndependentChoices case the day before agency services begin. Regardless of the situation, the State will assure that there will not be an interruption in delivering necessary services unless it is the preference of the participant to depend on informal supports.**

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1915(j) Self-Directed Personal Assistance Services (Continued)

vi. Involuntary Disenrollment

SUPERSEDES: TN- 07-23

- 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.

Participants may be disenrolled for the following reasons:

1. Health and Welfare: Any time DAAS feels the health and welfare of the participant is compromised by continued participation in the IndependentChoices Program, the participant may be returned to the traditional personal care program. Prior to this point the counselor has worked with the participant offering suggestions, identifying or changing representatives or employees to better meet the needs of the consumer, making in-home visits as needed by APS or HCBS RNs, and working to resolve these concerns. If no resolution is available, meeting the participant's health and well-being needs is of most importance; including referral back to the traditional model.
2. Change in Condition: Should the participant's **cognitive** ability to direct his/her own care diminish to a point where the participant can no longer self-direct and there is no responsible representative available to direct the care **the counselor will seek out sources of support**. If no resources are available, the IndependentChoices case will be closed. **The participant will be informed of the pending closure by letter. The letter will include a list of traditional personal care agencies serving the participant's area. If the participant is also a 1915(c) waiver recipient, an e-mail will be auto generated to the HCBS RN or targeted case manager. The e-mail to the HCBS RN or targeted case manager is auto generated and populated with the appropriate names once a closure date is entered in the database. The e-mail will inform the HCBS RN or targeted case manager of the pending closure of the IndependentChoices case necessitating a change in the HCBS service plan. Within five days of sending the letter the counselor will follow up with the participant to determine which agency the participant may wish to choose. The counselor will coordinate the referral with the agency provider. However, if the participant declines agency services, the counselor will respect the choice made by the participant. The participant may choose to have their needs met by informal caregivers.**
3. Misuse of Allowance: A notice will be issued should the participant or the representative who manages their cash allowance: 1) fail to pay related state and federal payroll taxes; 2) use the allowance to purchase items unrelated to personal care needs; 3) fail to pay the salary of a personal assistant; or 4) misrepresent payment of a personal assistant's salary. The counselor will discuss the violations with the participant and allow the participant to take corrective action including restitution if applicable. The participant will be permitted to remain in the program, but will be assigned to the fiscal intermediary, who will provide maximum bookkeeping support and services. The participant or representative will be notified that further failure to follow the expenditure plan **will** result in disenrollment and a report filed with **Program Integrity** when applicable.

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1915(j) Self-Directed Personal Assistance Services (Continued)

vi. Involuntary Disenrollment (Continued)

SUPERSEDES: TN- 07-23

Should an unapproved expenditure or oversight occur a second time, the participant/representative will be notified that their IndependentChoices case is being closed and the participant is being returned to traditional personal care. **Program Integrity** is informed of situations as required. The State will assure interruption of services will not occur while the participant is transitioning from IndependentChoices to traditional services.

4. **Underutilization of Allowance:** The fiscal intermediary is responsible for monitoring the use of Medicaid funds received on behalf of the participant. If the participant is underutilizing the allowance and not using the allowance according to their cash expenditure plan, the fiscal intermediary will inform the counseling entities through **quarterly reports and monthly reports upon request**. The counselor will discuss **problems that are occurring** with the participant and their support network. Together the parties will **resolve the underutilization**. The counselor will continue to monitor the participant's use of their allowance through both reviewing of reports and personal contact with the participant. If a **pattern of underutilization** continues to occur, future discussions will focus on what is in the best interest of the participant in meeting their ADLs even if the best solution is a return to agency services. **Unused funds are returned to the Arkansas Medicaid program within 45 days upon disenrollment. Funds accrued in the absence of a savings plan will be returned to the Arkansas Medicaid program within a twelve month filing deadline.** Exceptions to involuntary disenrollment may be considered if the participant has been hospitalized for an extended period of time or has had a brief visit out of state with approval by the participant's physician. Person-centered planning allows the flexibility of decision making based on individual needs that best meet the needs of the participant.
5. **Failure to Assume Employer Authority: Failure to Assume Employer Authority occurs when a participant fails to fulfill the role of employer and does not respond to counseling support. Participants who fail in their employer responsibilities but do not have a representative will be given the opportunity to select a representative who can assume employer responsibilities on behalf of the participant. Disenrollment will not occur without guidance and counseling by the counselor or by the fiscal intermediary. When this occurs, the counselor will coordinate agency personal care services to the degree requested by the participant. The participant may wish to self-advocate from a list provided by the counselor, ask the counselor to coordinate, or may simply wish to receive personal assistance services informally. The participant's wishes will be respected.**

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

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1915(j) Self-Directed Personal Assistance Services (Continued)

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vi. Involuntary Disenrollment (Continued)

When a participant is involuntarily disenrolled, a **notice of intent to close the IndependentChoices case will be mailed** to the participant. The notice will allow a minimum of 10 days but no more than 30 days before IndependentChoices **enrollment** will be discontinued, depending on the situation. During the transition period, the counselor will work with the participant/representative to **assure services are provided** to help the individual transition to the most appropriate **personal care** services available.

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.

There are no additional restrictions on living arrangements.

viii. Geographic Limitations and Comparability

- A. 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. Please describe: Age 18 and older.
- E. 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 7500 participants, at any given time.

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ix. Assurances

- A. The State assures that there are traditional 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:
 - o At the request of the participant for any reason; or
 - o When the State or its contracted entities observes the participant lacks the necessary skills to meet employer and budget authority.

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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.

Not applicable. The state will not allow entities who provide other Medicaid State Plan services to be responsible for developing the self-directed service plan.

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.

Many activities evaluate the overall performance of the IndependentChoices program such as:

- **The IndependentChoices program uses a database to track a wide array of data, and uses all of the data it stores. Data entry drives end user functionality through form and e-mail generation, field calculation, data cross-referencing, and notices and reports. The reporting capabilities can help to monitor every element of operations such as: case particulars, work reports and management and operational tools. Use of the database supports discovery, remediation, and quality improvements.**
- Using a **DMS approved** assessment tool to determine the resources in time required to provide care in the home.
- Reports received from Financial Management Services provider **received on a quarterly basis used** by counselors to **determine why** underutilization of the Cash Expenditure Plan occurs and **how underutilization can be resolved.**

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xi. Quality Assurance and Improvement Plan (Continued)

All individual facets of the program work in a continuum to identify, remediate and improve **the quality of services** and the satisfaction of program participants while improving the overall performance of the program. Each phase of the program is described, detailing how assurances are met through the Arkansas Quality Assurance and Improvement Plan described below.

Monitoring and Oversight

The Division of Medical Services (DMS) retains responsibility for the administration and oversight of all Medicaid programs. The Division of Aging and Adult Services (DAAS) is the operating agency for the IndependentChoices program and responsible for the day-to-day operations. Both Divisions are part of the Arkansas Department of Human Services. DAAS will be responsible for executing the Quality Assurance and Improvement Plan with monitoring and oversight by DMS.

DAAS will provide DMS with a monthly report **comparing status of current data to previous year data. Examples included in the report may include but are not limited to** the following:

- Enrollment activities
- Extension of Benefits results
- Status of pending applications
- Status of active case load
- **Participants who also receive home and community based services (HCBS)**
- **Medicaid Cost for IndependentChoices including participant-directed cost for HCBS services**
- **Detailed information for cost data for the most current month including cost of participant's budget and support services.**
- **Year in Progress count of participants, contact notes, home visits, new enrollments for the current month, year to date and accumulative prior year experiences.**

Lines of communication between the two Divisions are established and utilized to discuss additional needs and concerns that either Division may have.

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xi. Quality Assurance and Improvement Plan (Continued)

The IndependentChoices database is designed in such a way that discovery and remediation go hand in hand; not only for the counselors, nurses and contractors, but also for management staff. By design, the efficiency of the database enhances the counselor's ability to provide good customer service and not be overly burdened with paper work.

Examples on the following pages may include but are not limited to:

The database quantifies:

- referrals received during the month,
- persons disenrolling,
- Extensions of Benefits requested.

The database identifies:

- reasons for disenrolling from the program,
- IndependentChoices participants who also receive HCBS waiver services,
- the **HCBS RN assigned to the participant,**
- the participant's physician,
- physician's fax number,
- date next reassessment due.

The database **tracks and creates exception reports when standards are not met and quantifies results. Some examples of the reports are:**

- time between the date of referral, the nurse's home visit, and receipt of the assessment from the **HCBS RN,**
- time between receiving the assessment, sending the assessment to the physician and receiving the authorization from the physician,
- time between the referral and the actual enrollment
- **number of home visits made by HCBS RN's within a timeframe.**

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1915(j) Self-Directed Personal Assistance Services (Continued)

xi. Quality Assurance and Improvement Plan (Continued)

Each active and pending record contained within the database only includes data fields that are used in reporting. Each participant record may include the following:

- representative information, if applicable,
- participant's employee,
- participant's back-up worker,
- directions to the participant's home,
- nurse tracking,
- counselor tracking,
- contact notes,
- **HCBS ElderChoices (EC) service plan for persons receiving both ElderChoices and IndependentChoices.**

These data elements will assist the counselors and nurses in performing their duties by allowing timely management and monitoring of each participant's case. The HCBS service plan is used to determine if an extension of benefits is warranted, as all community resources are considered when requesting an extension of benefits. The database allows nurses, counselors or contractors to set health risk indicators identifying program participants who may require more frequent monitoring.

The data allows nurses and counselors to run reports from their case load. Automated highlights on specific data elements draw the nurse or counselor's attention to areas that require special attention. Highlighted data fields represent the following:

- assessment performed by the nurse but not received by DAAS,
- counselor's request for authorization by a physician not received after four or more days,
- date enrollment forms sent to a potential enrollee but not returned.

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xi. Quality Assurance and Improvement Plan (Continued)

Reports are available to management to monitor quality of services provided to program participants and performance of staff. The reports identify program strengths and weaknesses or individual areas of concern. Reports compare data elements over periods of time to measure progress of corrective actions. As issues are identified they are addressed with appropriate staff to determine a new course of action through issuing new policy, enacting new procedures, clarifying an existing policy or procedure, or developing additional training. Identified issues continue to be monitored to determine if the corrective action is resolving the concern and is achieving the expected outcomes.

These reports allow flexibility to generate data based on any specified period of time, by a nurse, counselor, contractor or by management. Reporting frequencies range from daily, monthly, or annually. Policy dictates a maximum period of time for completion of specific tasks with the focus on completing necessary tasks that allow the program participant to direct and meet their own health care needs.

Reporting is used to identify and remediate problems, improve program operation and to evaluate staff performance.

The database stores contact notes documenting IndependentChoices staff and contractors communication with program participants. Policy requires each contact note to be entered into the participant's record to enhance the ability of management to address concerns expressed by the participant, a legislator, the Governor's Office, etc., with a quick review of the contact notes.

Examples of data elements found in the nurse tracking database portion may include, but is not limited to these data elements describing some of the following characteristics:

- MDS-HC RUG category
- principal diagnosis,
- secondary diagnoses,
- participant well cared for,
- strong informal supports,
- no concerns noted,
- need for frequent counselor contact.

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xi. Quality Assurance and Improvement Plan (Continued)

Contact notes **may** include the following:

- person initiating the call,
- person receiving the call,
- date and time of call,
- subject of contact
- description of communication,
- complaint indicator
- whom complaint is directed toward
- **date of complaint resolution**

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Nurses are supported by the Nurse Case Load Report that quantifies the active and pending caseload for each nurse by describing the following:

- by county, the number of active and pending clients with or without home and community-based services and those with extension of benefits,
- data is also displayed in the aggregate by nurse per assigned counties.

Nurses use a **DMS approved assessment tool** to define the participant's medical needs relative to the amount of resources required to care for the person in the home. The **DMS approved assessment tool** is similar to the MDS assessment performed in nursing homes but is specifically designed for the community environment. The assessment results in a Resource Utilization Group (RUG) with an ADL Index defining the degree of functional impairment. These results help define the population served in addition to using a scientifically scaled and validated assessment instrument. The use of this assessment helps to more clearly describe the medical complexities of program participants as they strive to remain in the community and avoid institutionalization.

Monitoring occurs in various other ways such as:

- Underutilization of the allowance could be the first indication that a participant may be experiencing difficulty directing their own care. It could indicate the beginning of a decline in cognitive function, impairing the participant's ability to direct **their care**, a need for a representative **or decision making partner**; a loss of worker; or it may be nothing more than not submitting the timesheets in a timely manner. Each counselor works with his or her participants to determine the cause of the underutilization. The counselor and participant work together to resolve the problem with the counselor providing further assistance, as needed, or by the participant meeting his or her responsibilities as an employer. The counselor follows-up with additional calls to the participant and monitors future underutilization reports for reoccurrences.

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xi. Quality Assurance and Improvement Plan (Continued)

- Site visits to the contractors are made at a minimum bi-annually and more often if needed. The purpose of the site visit may be to provide an in-service, address concerns, or to evaluate performance. If during an evaluation deficiencies are noted, DAAS may provide additional in-services, require an acceptable corrective action plan, monitor the corrective action plan, withhold payment or terminate the contract.

Participant Feedback

The DAAS and its counseling and fiscal contractors support and encourage participant communication by provision of a toll-free number. Participants **may** pose questions and voice concerns using the toll-free number. Incoming calls from participants and outgoing calls from counselors or contractors **are** entered into the participant's individual electronic record. If the communication is an expressed complaint the **counselor follows DAAS required reporting procedures for documenting and resolving the complaint. Resolutions** may include policy or procedural changes. Monitoring will continue to determine if the change has any impact or if the problem needs additional review.

A DHS appeal process is available for decisions made concerning Medicaid eligibility or extension of benefits. An internal appeal process is available for participants when they **are in disagreement with the number of hours recommended by the HCBS RN, involuntary disenrollment or if they have disagreements with their counselor or fiscal agent**. The purpose of the internal appeal is to allow the participant a voice in the decision and a way to mediate any misunderstandings between the participant and the IndependentChoices program. Additional supporting information may be shared during this time. DAAS will issue a **letter to the participant** within five days from the date the **internal appeal is conducted**. Most disagreements are resolved prior to a participant initiating a **request for a fair hearing and appeal**. A formal Medicaid Fair Hearing is available when services are reduced, suspended, eliminated, or **upon loss of Medicaid eligibility**.

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xi. Quality Assurance and Improvement Plan (Continued)

Information and Assistance

Brochures are available for marketing purposes and are provided to any of the 75 county offices upon request.

Each participant receives a program handbook to convey program guidelines and expectations. Examples of information provided may include any of the following and is subject to additions and deletions as needs arise:

- Overview of the Independent Choices program
- Overview of support services
- Use of a representative (Decision-Making Partner) or Communications Manager
- Eligibility
- Participant rights
- Participant responsibilities
- Personal assistance services
- Other Medicaid services
- Medicaid waiver services
- Expectations from counselor, nurse, bookkeeper
- Participant's enrollment duties
- Confidentiality
- When participant-direction begins
- Case Expenditure Plan
- Record Keeping
- Payroll
- Timesheets
- Hiring, training, conflict resolution, and termination of personal assistant
- Adult protective services
- Support services monitoring
- Reassessments
- Appeal rights

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xi. Quality Assurance and Improvement Plan (Continued)

Participants may also receive in-home visits, newsletters, questionnaires, and contact by phone to support participants wishing to direct their own care.

Participants can speak with their counselor or the fiscal intermediary from 8:00 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays or **during inclement weather**. After hours the participant may leave a message; the counselor will return the call within one working day. Complaints are entered by the receiving party whether that is the counselor or the fiscal intermediary.

A packet of communication forms is provided to each participant to report a change, to revoke and/or change disclosure of information and to appeal adverse decisions. **The counselor may also verbally take information related to changes in address or phone number.**

Health and Welfare

Each participant must have an individual back-up plan to **handle situations when the participant's primary employee is unavailable. The participant identifies a person who is willing to assume the tasks of the primary employee. The participant determines the risk involved and how the risk is mitigated based on their own individual needs.** Inquiry of the use of the back-up plan occurs during **phone communication with the participant.** Reports from the IndependentChoices database can identify any program participant without a back-up personal attendant and if there is a conflict **regarding** a representative serving as a paid back-up personal attendant. The counselor initiates communications with the participant to begin remediation.

Counseling and fiscal entities will work closely together to provide information necessary for each entity to perform their duties. Frequent and **thorough** communication facilitates this good working relationship.

The database assists in addressing health and welfare concerns by allowing monitoring and management of each individual file by:

- identifying a participant's representative, **employee**, physician, back-up worker, directions to the home, results of the nurse's assessment, and updates by the counselor assisting the participant in the IndependentChoices program, and;
- documenting all communications with the program participants.

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1915(j) Self-Directed Personal Assistance Services (Continued)

xi. Quality Assurance and Improvement Plan (Continued)

Financial Accountability

DAAS assures that payments are made to Medicaid eligible participants by:

- accessing Medicaid eligibility data prior to enrolling a person into IndependentChoices to assure eligibility for Medicaid and the IndependentChoices program;
- IndependentChoices program logic implemented by the Arkansas Medicaid fiscal intermediary interfaces with the Medicaid Management Information System (MMIS) to edit against creation of an allowance for any participant who is no longer Medicaid eligible or is institutionalized;
- DAAS maintains the MMIS eligibility file for IndependentChoices. **The Arkansas fiscal intermediary reads the MMIS eligibility file to create claims for the IndependentChoices program. DAAS queries on a weekly basis the Medicaid data warehouse to identify persons who are deceased, entered a nursing home, or have lost Medicaid eligibility. Once identified, the IndependentChoices eligibility segment is closed by an IndependentChoices counselor on a weekly basis. Through contact with the participant or participant's family or representative this information is obtained prior to the update of the MMIS;**
- DAAS also queries the Medicaid data warehouse to identify IndependentChoices participants who have had an acute hospitalization. Once identified, DAAS informs the program participant, FMS provider and the counseling entity by letter that the participant's allowance paid prospectively **during the hospitalization must be returned to the Medicaid program. The day of admission and day of discharge are allowable days;**
- preventing duplication of agency and consumer-directed services by informing agency provider by fax seven days in advance the date the participant will begin directing their own personal care services.

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1915(j) Self-Directed Personal Assistance Services (Continued)

xi. Quality Assurance and Improvement Plan (Continued)

Qualified Providers

IndependentChoices counseling and fiscal providers assist program participants in all phases of program participation. Some of the examples of the work by these providers may include but is not limited to any of the work activities below:

- enrollment of new participants;
- **develop and implement participant-directed budget;**
- **coordinate with FMS provider and DAAS;**
- orientation to IndependentChoices and the **philosophy of participant direction;**
- **offer skills training to the degree desired by the participant** on how to recruit, interview, hire, evaluate, manage or dismiss assistants;
- **participant-directed** counseling support services;
- monitoring IndependentChoices participants/representatives;
- **monitor over and under expenditures of Cash Expenditure Plan;**
- provide quarterly reports to DAAS;
- **manage the individual budget on behalf of the participant;**
- **process payroll and support payment for other qualified services and supports;**
- **report and pay state and federal income taxes, FICA, Medicare, and state and federal unemployment taxes;**
- **verify citizenship status of workers;**
- **serve as the fiscal agent of the participant per IRS rules;**
- **issues reports to DAAS;**
- **communicate with counselors on budget changes;**
- **inform participants of their individual budget balance.**

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1915(j) Self-Directed Personal Assistance Services (Continued)

xi. Quality Assurance and Improvement Plan (Continued)

SUPERSEDES: TN- 07-23

Qualified Providers (continued)

DAAS is responsible for the following activities:

- monitor the counseling and fiscal providers to ensure compliance with the spirit of **participant**-direction and that appropriate counseling, fiscal and programmatic procedures are maintained;
- serve as the liaison between counseling agency, fiscal provider, Medicaid Management Information System (MMIS), and the Arkansas Medicaid fiscal intermediary;
- monitor the process to reimburse the counseling agency and fiscal provider for services provided to program participants.

Quality assurance measures previously discussed, assist DAAS in discovery and remediation to assure high standards in the offering and management of the participant-directed personal care program. The IndependentChoices program establishes, as its foundation, a person-centered approach that guides not only DAAS, but counseling and fiscal providers as well.

xii. Risk Management

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

The **HCBS RN or the counselor** is the catalyst for identifying potential risks. **In-home visits by either party help to identify** risks involved in the current home environment as well as potential risks involved with self-direction. The **counselor or the HCBS RN** can identify risks that may be environmental in nature such as throw rugs, uneven floors, etc. or the **DMS approved assessment tool** may identify potential risks such as not receiving a flu vaccine, etc. Based on the **HCBS RN's** observation and the **DMS approved assessment tool**, the **HCBS RN after receiving notification from the counselor** will discuss the potential risks identified with the individual. **If the HCBS RN determines that a representative is needed, the RN will inform the counselor.**

When the HCBS RN determines that a person is in need of a representative, the nurse will inform the counselor, and the counselor will work with the participant to determine if there is someone who knows the participant's likes, dislikes and preferences and is willing to accept the responsibilities to represent the participant in the IndependentChoices program.

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1915(j) Self-Directed Personal Assistance Services (Continued)

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xii. Risk Management

The counselor is responsible for working with the participant to determine who can serve as the representative. The counselor will then work with the representative to teach, educate and work with the proposed representative so that the representative is fully aware of the responsibilities they are accepting in representing a person in a participant-directed program.

If the HCBS RN arrives and the participant is experiencing cognitive impairment and no informal supports are present, the participant will be discouraged from enrolling unless an informal support system can be identified, including someone to act as a representative decision maker. Participation in IndependentChoices requires **the participant or their representative to be assertive in their role as employer** and accept the risks, rights and responsibilities of directing their own care. **If a representative is unavailable and the potential enrollee is incapable of performing these tasks without health and safety risks the person will not be enrolled.** Blatant health and welfare concerns will not be compromised if solutions cannot be identified and enacted.

In addition to the HCBS RN's involvement there is communication with other agency providers providing home and community based services, with all parties having a vested interest in the health and welfare of the participant. This communication **assists the operating agency to respond to any voiced concern with self-directed care.**

The Participant Responsibilities and Agreement Form, which details all the requirements of self-direction, identifies areas where the individual may not be able to meet their responsibilities.

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

Every opportunity is afforded a participant to direct their own care, but the participant must accept and assume employer responsibility. Counseling support is available to help the participant, but ultimately it is the determination of the participant to succeed that determines whether participant direction will be a successful program for them. The IndependentChoices program requires a participant to make good decisions in order to assure that their personal assistance needs are met. The program allows the use of a Communications Manager for persons who have difficulty with written or oral communication. The Communications Manager acts as the voice of the participant but does not make decisions for the participant. Nor does the Communications Manager hire, train, supervise, or fire the participant's employee.

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1915(j) Self-Directed Personal Assistance Services (Continued)

xii. Risk Management (Continued)

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When a participant needs a representative, the program allows for appointment of a Decision-Making Partner (DMP) who is willing to act and assume the employer role for the participant. The counselor is the person responsible for working with the participant or the participant's family in the appointment of either a Communications Manager or a Decision-Making Partner. Each time a DMP is appointed the enrollment of the DMP is similar to a new participant enrollment. The DMP must be at least 18 years of age and able and willing to meet the following requirements:

- Possess knowledge of the participant's preferences
- Be willing to meet and uphold all program requirements
- Be willing to sign tax form and verify timesheets,
- Show a strong personal commitment to the participant
- Visit the participant at least weekly
- Uphold all duties without influence by the personal assistant or paid back-up worker
- Obtain approval from the participant and a consensus from other family members of the participant to serve as the DMP
- Be willing to submit to a criminal background check
- Be available to discuss the program hours

Whether a participant appoints a Communications Manager or Decision-Making Partner, there are specific forms that must be completed.

If at any time DAAS learns that the participant's personal attendant is not providing the care agreed upon, the counselor will contact the participant/representative to ascertain the ability of the participant/representative to fulfill the role of employer. This discussion is to seek what types of assistance or support the participant or representative may need. A review of recurring instances of noncompliance could be reason for involuntary disenrollment.

When persons affiliated with the IndependentChoices program suspect abuse or neglect causing potential for health and safety risk to the participant by the representative, family members, personal attendant, or others, the participant will be referred to Adult Protective Services.

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xii. Risk Management (Continued)

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- 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.

The service plan is a result of the **assessment** and will list **any** risks identified in the assessment **and identify** cautionary measures in relation to personal assistance needs with ADLs and IADLs. The service plan will **identify** any other risks identified through observation that **were** not identified through the **assessment** or risks identified by the participant, representative or interested parties through a participant-centered approach. The **HCBS RN makes the counselor aware of these concerns requiring a plan** or actions needed to mitigate the risks and who is responsible for each action. The service plan requires the signature of the participant/representative.

- 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.

HCBS RN's and counselors are trained to apply a participant-centered approach in developing all plans with the participant. Participants are always encouraged to invite friends and family members who have a personal commitment to the participant **but are not acting as an employee** to be present in all meetings **or communications** between the participant and nurse or counselor. Identified risks will be discussed with the participant/representative and interested parties to determine a plan to mitigate the risk. The counselor facilitates and guides the discussion and identifies concerns with any discussed approaches to mitigation of risk.

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1915(j) Self-Directed Personal Assistance Services (Continued)

xiii. Qualifications of Providers of Personal Assistance

SUPERSEDES: TN- 07-23

- A. 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 Representative

- A. The State elects to permit participants to appoint a representative to direct the provision of self-directed personal assistance services on their behalf.
 - v. The State elects to include, as a type of representative, a State-mandated representative. Please indicate the criteria to be applied.

If the participant has been diagnosed with a mental or cognitive impairment such as mental retardation, dementia, Alzheimer's Disease, etc., the participant or family members close to the participant will be required to choose a representative in order to participate or continue to participate in Independent Choices. **If the participant is cognitively impaired and cannot fulfill the role of employer and has no family members who are knowledgeable of the participant's likes, dislikes and preferences they will no longer be able to direct their own care.**

- 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. 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.

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1915(j) Self-Directed Personal Assistance Services (Continued)

xvi. Financial Management Services

- A. 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. 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 in Federal regulations 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.

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