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State/Territory Name: Arkansas

State Plan Amendment (SPA) #: 18-0014

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1301 Young Street
Dallas, Texas 75202

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Regional Operations Group

March 22, 2019

Ms. Dawn Stehle
State Medicaid Director
Arkansas Department of Health and Human Services
Division of Medical Services
P.O. Box 1437
Little Rock, Arkansas 72203-1437

Dear Ms. Stehle:

Enclosed is a copy of approved Arkansas (AR) State Plan Amendment (SPA) 18-0014, with an effective date of January 1, 2019. This amendment was submitted to modify and clarify the provisions of the Medicaid State Plan with regards to personal care services and self-directed personal assistance services.

This letter affirms that AR 18-0014 is approved effective January 1, 2019 as requested by the State.

We are enclosing the CMS-179 and the following amended plan pages:

- Attachment 3.1-A, Page 10aa
- Supplement 4 to Attachment 3.1-A, Page 2
- Supplement 4 to Attachment 3.1-A, Pages 3 and 4
- Supplement 4 to Attachment 3.1-A, Page 5
- Supplement 4 to Attachment 3.1-A, Pages 8, 9 and 10
- Supplement 4 to Attachment 3.1-A, Page 11
- Supplement 4 to Attachment 3.1-A, Pages 12-24

If you have any questions regarding this matter you may contact Stacey Shuman at 214-767-6479, or by email at stacey.shuman@cms.hhs.gov.

Sincerely,

[redacted]

Bill Brooks
Director
Centers for Medicaid & CHIP Services
Regional Operations Group

Cc: Billy Bob Farrell, ROG Dallas
Melissa Musotto, CMS Baltimore

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: 2018-014	2. STATE ARKANSAS
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE: January 1, 2019	

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 U.S.C. §§ 1396d(a)(24) and 1396n(j)	7. FEDERAL BUDGET IMPACT: a. FFY 2019 $ 0 b. FFY 2020 $ 0
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Please see attached	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: Please see attached

10. SUBJECT OF AMENDMENT:
The Arkansas Title XIX State Plan has been amended to modify and clarify the provisions of the Medicaid State Plan with regards to personal care services and to self-directed personal assistance services.

11. GOVERNOR'S REVIEW *(Check One)*:
☒ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL: [redacted]	16. RETURN TO: Division of Medical Services PO Box 1437, Slot S295 Little Rock, AR 72203-1437 Attention: Dave Mills
13. TYPED NAME: Tami Harlan	
14. TITLE: Director, Division of Medical Services	
15. DATE SUBMITTED: October 15, 2018	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: October 15, 2018	18. DATE APPROVED: March 22, 2019
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2019	20. [redacted]
21. TYPED NAME: Bill Brooks	Region VI Director, Division of Medicaid Field Operations

23. REMARKS:

ATTACHED LISTING FOR
ARKANSAS STATE PLAN
TRANSMITTAL #2018-014

8. **Number of the Plan** **Section or Attachment**	9. **Number of the Superseded Plan** **Section or Attachment**
Attachment 3.1-A, Page 10aa	Attachment 3.1-A, Page 10aa Approved 10-27-17, TN 17-09
Supplement 4 to Attachment 3.1-A, Page 2	Supplement 4 to Attachment 3.1-A, Page 2 Approved 08-02-12, TN 12-09
Supplement 4 to Attachment 3.1-A, Pages 3 & 4	Supplement 4 to Attachment 3.1-A, Pages 3 & 4 Approved 12-07-15, TN 15-010
Supplement 4 to Attachment 3.1-A, Page 5	Supplement 4 to Attachment 3.1-A, Page 5 Approved 08-02-12, TN 12-09
Supplement 4 to Attachment 3.1-A, Pages 8, 9 & 10	Supplement 4 to Attachment 3.1-A, Pages 8, 9 & 10 Approved 08-02-12, TN 12-09
Supplement 4 to Attachment 3.1-A, Page 11	Supplement 4 to Attachment 3.1-A, Page 11 Approved 11-30-15, TN 15-07
Supplement 4 to Attachment 3.1-A, Pages 12-24	Supplement 4 to Attachment 3.1-A, Pages 12-24 Approved 08-02-12, TN 12-09

State: Arkansas
Date Received: 15 October, 2018
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AMOUNT, DURATION AND SCOPE OF SERVICES PROVIDED

Revised: January 1, 2019

CATEGORICALLY NEEDY

1. Personal Care

A. Personal care services are provided by a personal care aide to assist with a client's physical dependency needs. The personal care aide must have at least 24 hours classroom training and a minimum of supervised practical training of 16 hours provided by or under the supervision of a registered nurse for a total of no less than 40 hours.

B. Personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or institution for mental disease that are –

1. Authorized for the individual in accordance with a service plan approved by the State;
2. Provided by an individual who is qualified to provide such services; and
3. Furnished in a home, and at the State's option, in another location, including licensed residential care facilities and licensed assisted living facilities.

C. The State defines "a member of the individual's family" as:

1. A spouse,
2. A minor's parent, stepparent, foster parent or anyone acting as a minor's parent,
3. A minor's "guardian of the person" or anyone acting as a minor's "guardian of the person" or
4. An adult's "guardian of the person" or anyone acting as an adult's "guardian of the person".

D. Under no circumstances may Medicaid reimbursement be made for personal care services rendered by the client's:
1. Legal guardian; or
2. Attorney-in-fact granted authority to direct the client's care.

E. Personal care services are covered for categorically needy individuals only.

F. Personal care services are medically necessary, prescribed services to assist clients with their physical dependency needs.

1. Personal care services involve "hands-on" assistance, by a personal care aide, with a client's physical dependency needs (as opposed to purely housekeeping services**). Personal care services also include employment-related personal care associated with transportation.**
2. The tasks the aide performs are similar to those that a nurse's aide would normally perform if the client were in a hospital or nursing facility.

G. Prior authorization is required for personal care pursuant to the Independent Assessment for all beneficiaries. **Personal care services for adults 21 years of age or older are limited to a maximum of 64 hours per calendar month.**

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: **ARKANSAS**

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

iii. Payment Methodology (Continued)

C. __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, **DHS professional staff** 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, **DHS professional staff** will assist by informing the participant of traditional agency personal care providers in the participant's area. **DHS professional staff** 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. **DHS professional staff** will coordinate the participant's wishes to the degree requested by the participant. This may include self-advocation by the participant and asking **DHS professional staff** 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 **DHS professional staff** coordinate the agency services, **DHS staff** will ascertain when services can be started. **DHS staff** 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

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 **DPSQA** 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 **counseling entity's support coordinator** 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 **counseling entity's support coordinator** 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 **counseling entity's support coordinator** will follow up with the participant to determine which agency the participant may wish to choose. The **counseling entity's support coordinator** will coordinate the referral with the agency provider. However, if the participant declines agency services, the **counseling entity's support coordinator** 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 **counseling entity's support coordinator** 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 Office of Medicaid Inspector General when applicable.

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

vi. Involuntary Disenrollment (Continued)

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. Office of Medicaid Inspector General 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 **counseling entity's support coordinator** will discuss problems that are occurring with the participant and their support network. Together the parties will resolve the underutilization. The **counseling entity's support coordinator** 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 **counseling entity's support coordinator** or by the fiscal intermediary. When this occurs, the **counseling entity's support coordinator** 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 **counseling entity's support coordinator**, ask the **counseling entity's support coordinator** 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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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: **ARKANSAS**

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

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 **counseling entity's support coordinator** 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. __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. __X__ 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. __X__ The State elects to provide self-directed personal assistance services to 7500 participants, at any given time.

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

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

i. 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 **DHS-**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 **DHS Independent Choices QA staff** to determine why underutilization of the Cash Expenditure Plan occurs and how underutilization can be resolved.

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

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 **Provider Services and Quality Assurance (DPSQA)** 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. **DPSQA** will be responsible for executing the Quality Assurance and Improvement Plan with monitoring and oversight by DMS.

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

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 **DHS Independent Choices QA staff**, nurses and contractors, but also for management staff. By design, the efficiency of the database enhances the **DHS Independent Choices QA staff's** ability to **monitor the program without being** overly burdened **by** paperwork. Examples on the following pages may include but are not limited to:

The database quantifies:

- referrals received during the month,
- persons disenrolling,

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 of 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 **DHS Independent Assessment Contractor**,
- 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,
- **Independent Choices QA** tracking,
- contact notes,
- HCBS ARChoices service plan for persons receiving both ARChoices and IndependentChoices.

These data elements will assist the **DHS Independent Choices QA staff** and nurses in performing their duties by allowing timely management and monitoring of each participant's case. The database allows nurses, **DHS Independent Choices QA staff** or contractors to set health risk indicators identifying program participants who may require more frequent monitoring.

The data allow**s** nurses and **DHS Independent Choices QA staff** to run reports from their case load. Automated highlights on specific data elements draw the nurse or **DHS Independent Choices QA staff** attention to areas that require special attention. Highlighted data fields represent the following:

- assessment performed by the **DHS Independent Assessment Contractor** but not received by **DPSQA**,
- date enrollment forms sent to a potential enrollee but not returned.

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

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, **DHS Independent Choices QA staff**, 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 **QA** 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:

- **Level of care tier** category
- principal diagnosis,
- secondary diagnoses,
- participant well cared for,
- strong informal supports,
- no concerns noted,
- need for frequent **counseling entity's support coordinator** contact.

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

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

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,
- data is also displayed in the aggregate by nurse per assigned counties.

The DHS Independent Assessment Contractor uses a **DHS**-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 **DHS**-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 **level of care tier** 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 **counseling entity's support coordinator** works with his or her participants to determine the cause of the underutilization. The **counseling entity's support coordinator** and participant work together to resolve the problem with the **counseling entity's support coordinator** providing further assistance, as needed, or by the participant meeting his or her responsibilities as an employer. The **counseling entity's support coordinator** follows-up with additional calls to the participant and monitors future underutilization reports for reoccurrences.

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

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, **DPSQA** 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 **DPSQA** 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 **counseling entity's support coordinators** or contractors are entered into the participant's individual electronic record. If the communication is an expressed complaint the **counseling entity's support coordinator** follows **DPSQA** 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. 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 **counseling entity's support coordinator** 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. **DPSQA** 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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1915(j) Self-Directed Personal Assistance Services (Continued)

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 IndependentChoices program
- Overview of support services
- Use of a representative (Decision-Making Partner)
- Eligibility
- Participant rights
- Participant responsibilities
- Personal assistance services
- Other Medicaid services
- Medicaid waiver services
- Expectations from **counseling entity's support coordinator**, 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 **counseling entity's support coordinator** 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 **counseling entity's support coordinator** will return the call within one working day. Complaints are entered by the receiving party whether that is the **counseling entity's support coordinator** 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 **counseling entity's support coordinator** 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 **counseling entity's support coordinator** initiates communications with the participant to begin remediation.

The counseling **entity's support coordinator** 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 participants representative, employee, physician, back-up worker, directions to the home, results of the **Independent Assessment**, and updates by the **counseling entity's support coordinator** 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

DPSQA 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;
- **DPSQA** maintains the MMIS eligibility file for IndependentChoices. The Arkansas fiscal intermediary reads the MMIS eligibility file to create claims for the IndependentChoices program. **DPSQA** 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 **DHS** Independent Choices **QA staff** 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;
- **DPSQA** also queries the Medicaid data warehouse to identify IndependentChoices participants who have had an acute hospitalization. Once identified, **DPSQA** 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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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 **DPSQA**;
- 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 **DPSQA**;
- 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 **DPSQA**;
- communicate with **counseling entity's support coordinator** on budget changes;
- inform participants of their individual budget balance.

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xi. Quality Assurance and Improvement Plan (Continued)

Qualified Providers (continued)

DPSQA 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 **DPSQA** 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 **DPSQA**, 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 **counseling entity's support coordinator** 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 **counseling entity's support coordinator** or the HCBS RN can identify risks that may be environmental in nature such as throw rugs, uneven floors, etc. or the **DHS**-approved assessment tool may identify potential risks such as not receiving a flu vaccine, etc. Based on the HCBS RN's observation and the **DHS**-approved assessment tool, the HCBS RN after receiving notification from the **counseling entity's support coordinator** will discuss the potential risks identified with the individual. If the HCBS RN determines that a representative is needed, the RN will inform the **counseling entity's support coordinator**.

When the HCBS RN determines that a person is in need of a representative, the nurse will inform the **counseling entity's support coordinator** and the **counseling entity's support coordinator** 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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xii. Risk Management (Continued)

The **counseling entity's support coordinator** is responsible for working with the participant to determine who can serve as the representative. The **counseling entity's support coordinator** 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.

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xii. Risk Management (Continued)

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 **counseling entity's support coordinator** is the person responsible for working with the participant or the participant's family in the appointment of a **Representative or** decision-making partner. Each time a **Representative or** DMP is appointed the enrollment of the DMP is similar to a new participant enrollment. The **Representative or** 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

Once the participant has appointed a Representative or DMP, there are specific forms that must be completed.

If at any time **DPSQA** 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)

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 **Independent Assessment and a form designated by DHS** and will list **the** risks identified in the assessment. The service plan will **also require the nurse to list** any other risks identified through observation that **were** not identified through the **Independent Assessment or form designated by DHS,** or risks identified by the participant, representative or interested parties through a participant-centered approach. The **service plan will identify the 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, **agreeing to the service plan and what the participant/representative is willing to do to mitigate risk**.

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.

IndependentChoices nurses and counseling entity's support coordinator 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 to be present in all meetings between the participant and nurse or **counseling entity's support coordinator**. Identified risks will be discussed with the participant/representative and interested parties to determine a plan to mitigate the risk. The **nurse and counseling entity's support coordinator are there to facilitate and guide** the discussion and identify concerns with any discussed approaches to mitigation of risk.

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xiii. Qualifications of Providers of Personal Assistance

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. __X__ 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. __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. __X__ The State elects to include, as a type of representative, a State-mandated representative. Please indicate the criteria to be applied.

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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 IndependentChoices. **If the participant has not been diagnosed with a mental condition, but the DPSQA RN and counseling staff determines through the Self-Assessment instrument, discussions with the participant, and sometimes a trial period of self-direction with enhanced counseling, that the individual's cognitive abilities are not sufficient to self-direct, the participant will be required to choose a representative. The counseling staff will work with the participant to establish a representative, using all avenues to find one if necessary. If the participant refuses to select a representative or the participant cannot find anyone who can act in that capacity after all avenues have been exhausted, the counseling entity's support coordinator will coordinate with the participant to transition the participant to the traditional personal care provider of choice**.

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.

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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 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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