

6.d. Other practitioners' services. (continued)

B. **Public health nursing services**, continued.

- a) documentation of health status;
- b) determination of need;
- c) identification of appropriate services;
- d) service plan development, including, if supervision by a qualified professional is requested, assisting the recipient or responsible party to identify the most appropriate qualified professional;
- e) coordination of services;
- f) referrals and follow-up to appropriate payers and community resources;
- g) completion of required reports;
- h) if a need is determined, recommendation and receipt of service authorization; and
- i) recipient education.

A face-to-face assessment is also required when there is a significant change in health status, when the recipient uses PCA Choice and after two phone service update assessments have been completed.

Reassessments are conducted, ~~in person,~~ at least annually or when there is a significant change in the recipient's condition and need for services. ~~If there is a change in the recipient's medical condition, a new physician's statement of need must be obtained.~~ The reassessment includes:

- a) a review of initial baseline data;
- b) an evaluation of service effectiveness;
- c) a redetermination of need for service;
- d) a modification of the service plan, if necessary, and appropriate referrals;
- e) an update of the initial forms;
- f) if a need is redetermined, recommendation and receipt of service authorization; and
- g) ongoing recipient education.

Service updates are conducted in lieu of an annual face-to-face-reassessment when a recipient's condition or need for personal care assistant services has not changed

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7. Home health services.

- Covered home health services are those provided by a Medicare certified home health agency that complies with 42 CFR §§484.4 and 440.70, that are: (a) medically necessary health services; (b) ordered by a physician; (c) documented in a plan of care that is reviewed and revised as medically necessary by the physician at least once every 60 days; and (d) provided to the recipient at his or her own place of residence that is a place other than a hospital, nursing facility, or intermediate care facility for the mentally retarded (ICF/MR) unless skilled nurse visits have been prior authorized for less than 90 days for a resident at an ICF/MR in order to prevent an admission to a hospital or nursing facility and is not required to be provided by the facility under 42 CFR Part 483, subpart I.

"Professional nurse" refers to registered nurses and licensed practical nurses, all licensed under the Minnesota Nurse Practice Act.

- Home health services ~~includes~~ include the following: skilled nurse visits, home health aide visits, medical supplies, equipment and appliances; physical therapy; occupational therapy, speech pathology; audiology and skilled nurse visits provided via telehomecare. ~~Telehomecare~~ which is the use of live, two-way interactive audiovisual technology that can be augmented using store-and-forward technologies. Department ~~prior~~ authorization is required for telehomecare.
- Department ~~prior~~ authorization is required for home health aide visits or skilled nurse visits, ~~unless a physician has ordered such visits. and:~~
  - ~~a) the registered nurse determines an immediate need for up to 40 home health aide visits or skilled nurse visits per calendar year and submits a request to the Department for authorization of payment within 20 working days of the initial service date, and medical assistance is the appropriate payer; or~~
  - ~~b) this is the first through the ninth skilled nurse visit during a calendar year.~~Department ~~prior~~ authorization is based on medical necessity, physician's orders, the recipient's needs, diagnosis, and condition, the plan of care, and cost-effectiveness when compared with other care options.

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7.a Intermittent or part-time nursing services provided by a home health agency, or by a registered nurse when no home health agency exists in the area.

- Covered intermittent or part-time nursing services are those provided by a Medicare-certified home health agency that are:
  - a) medically necessary;
  - b) ordered by a physician;
  - c) documented in a plan of care that is reviewed and revised as medically necessary by the physician at least once every 60 days; and
  - d) provided to the recipient at the recipient's own place of residence that is a place other than a hospital, nursing facility, or intermediate care facility for the mentally retarded (ICF/MR) unless skilled nurse visits have been prior authorized for less than 90 days for a resident at an ICF/MR in order to prevent an admission to a hospital or nursing facility and is not required to be provided by the facility under 42 CFR Part 483, subpart I.
- ~~Homemaker services, social services, educational services, and services not prescribed by the physician are not paid by medical assistance.~~
- Home health agencies or registered nurses that administer pediatric vaccines as noted in item 5.a., Physicians' services within the scope of their licensure must enroll in the Minnesota Vaccines for Children Program.
- ~~Influenza and pneumococcal immunizations for adults may be administered through a standing order are an exception to the requirement that home health services be ordered by a physician. If there is a standing order for these immunizations, they may be administered by a professional nurse per agency policy developed in consultation with a physician, and after an assessment for contraindications. The standing order includes an order from the physician, assessment criteria and contraindications for the immunizations. The professional nurse follows the standing order.~~

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7.a Intermittent or part-time nursing services provided by a home health agency, or by a registered nurse when no home health agency exists in the area. (continued)

- Nurse visits are covered by medical assistance. The visits are provided in a recipient's residence under a plan of care or services plan that specifies a level of care that the nurse is qualified to provide. These services are:
  - a) nursing services according to the written plan of care or services plan and accepted standards of medical and nursing practice in accordance with State laws governing nursing licensure;
  - b) services that, due to the recipient's medical condition, may only be safely and effectively provided by a licensed practical nurse through a home health agency or a registered nurse;
  - c) assessments performed only by a registered nurse; and
  - d) teaching and training the recipient, the recipient's family, or other caregivers.
- The following services are not covered under medical assistance as intermittent or part-time nursing services:
  - a) nurse visits for the sole purpose of supervision of the home health aide;
  - b) a nursing visit that is:
    - i) only for the purpose of monitoring medication compliance with an established medication program; or
    - ii) to administer or assist with medication administration, including injections, prefilling syringes for injections, or oral medication set-up of an adult recipient, when as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient is physically and mentally able to self-

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7.a Intermittent or part-time nursing services provided by a home health agency, or by a registered nurse when no home health agency exists in the area. (continued)

- administer or prefill a medication;
- c) a visit made by a nurse solely to train other home health agency workers;
- d) nursing services that can reasonably be obtained as outpatient services;
- e) Medicare evaluation or administrative nursing visits for dually eligible recipients that do not qualify for Medicare visit billing;
- f) skilled nurse visits (beyond the first nine ~~five~~ during a calendar year) that are not ~~prior~~ authorized; and
- g) nursing visits when not medically necessary;
- h) homemaker services, social services, educational services, and services not prescribed by a physician.

8. Private duty nursing services.

- Private duty nursing services are only covered when medically necessary, ordered in writing by the physician, and documented in a written plan of care that is reviewed and revised as medically necessary by the physician at least once every 62 days.
- Private duty nursing services are not reimbursable if a skilled nurse visit is appropriate, or if a personal care assistant can be utilized.
- Private duty nursing services may also be provided by a parent of a minor child, family foster parent, spouse or unpaid legal guardian, who must be a professional nurse and employed by a licensed private duty nursing agency ~~and must be included in the plan of care under direction by the physician.~~
- Private duty nursing services may be provided by a licensed registered nurse or licensed practical nurse who is the recipient's spouse, unpaid legal guardian, family foster parent or parent of a minor child, if:
  - 1) the nurse passes a criminal background check;
  - 2) the services are necessary to prevent hospitalization of the recipient; and
  - 3) one of the following are met:
    - a. the nurse resigns from a part-time or full-time job to provide nursing care for the recipient;
    - b. the nurse goes from a full-time job to a part-time job with less compensation for provide nursing care for the recipient;
    - c. the nurse takes a leave of absence without pay to provide nursing care for the recipient; or
    - d. because of labor conditions, special language needs, or intermittent hours of nursing care needed, the nurse is needed in order to provide adequate care to meet the medical needs of the recipient.
  - 4) Authorized private duty nursing services provided by a relative, family foster parent or unpaid legal guardian may not exceed 50 percent of the total approved nursing hours, or eight hours a day, whichever is less, up to a maximum of 40 hours per week regardless of the number of children or adults who receive services.
- Private duty nursing services includes ongoing professional nursing services provided ~~by licensed registered nurses or licensed practical nurses employed by a Medicare-certified home health agency or self-employed~~ when the recipient requires more individualized and continuous care than can be provided during a skilled nurse visit, by licensed registered nurses or licensed practical nurses who are self-employed or employed by a class "A" licensed home care agency as required by state law.
- Department ~~prior~~ authorization is required for all private duty nursing services. ~~Prior a~~Authorization is based on medical necessity; physician's orders; the recipient's needs, diagnosis, and condition; an assessment of the recipient; the plan of care; and cost-effectiveness when compared to alternative care options. For recipients who meet hospital admission criteria, the Department shall not authorize more

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8. Private duty nursing services. (continued)

than 16 hours per day of private duty nursing service with the following exceptions. ~~or~~ The Department may authorize up to 24 hours per day of private duty nursing service while a determination of eligibility is made for recipients who are applying for services under Minnesota's approved model home and community-based services waiver or during an appeal to the appropriate regulatory agency to determine if a health benefit plan is required to pay for medically necessary nursing services. For recipients who do not meet hospital admission criteria, the Department may authorize up to 9.75 hours per day of private duty nursing service. ~~Authorized private duty nursing services provided by a relative may not exceed 50 percent of the total approved nursing hours, or eight hours a day, whichever is less, up to a maximum of 40 hours per week.~~

Authorized units of private duty nursing service may be used in the recipient's home or outside of the recipient's home if normal life activities take the recipient outside of their home. To receive private duty nursing services at school, the recipient or his or her responsible party must provide written authorization in the recipient's care plan identifying the chosen provider and the daily amount of services to be used at school.

- Private duty nursing providers that are not Medicare certified must refer and document the referral of dual eligibles to Medicare providers when Medicare is the appropriate payer.

Recipients may receive shared private duty nursing services, defined as nursing services provided by a private duty nurse to two recipients at the same time and in the same setting at a reduced rate. Decisions on the selection of recipients to share private duty nursing services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

26. Personal care services.

~~Personal care services are provided by personal care provider organizations or by use of the PCA Choice option.~~

~~**A. Personal care provider organizations**~~

~~Personal care services provider qualifications:~~

- ~~• Personal care assistants must be employees of or under contract with a personal care provider organization or a fiscal intermediary (PCA Choice)~~
- ~~• If a recipient's diagnosis or condition changes, requiring a level of care beyond that which can be provided by a personal care provider, non-Medicare certified personal care providers must refer and document the referral of dual eligibles to Medicare providers (when Medicare is the appropriate payer).~~
- ~~• Personal care assistant means a person who:~~
  - ~~a) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation;~~
  - ~~b) is able to effectively communicate with the recipient and the personal care provider organization;~~
  - ~~c) is able to and provides covered personal care assistant services according to the~~



26. Personal care services. (continued)

~~recipient's plan of care, responds appropriately to the recipient's needs, and reports changes in the recipient's conditions to the physician or the supervising qualified professional if supervision is requested by the recipient. For the purposes of this item, "qualified professional" means a registered nurse, a mental health professional defined in item 6.d.A. of this attachment, or licensed social worker;~~

~~d) is not a consumer of personal care assistant services;~~

~~e) is subject to criminal background checks and procedures specified in the state human services licensing act; and~~

~~f) maintains daily written records for each recipient detailing the services provided and the amount of time spent providing the services.~~

~~Personal care provider organization means an entity enrolled to provide personal care services under medical assistance that complies with the following:~~

~~a) owners who have a five percent interest or more, and managerial officials are subject to a background study. This applies to currently enrolled personal care provider organizations and those entities seeking to enroll as a personal care provider organization. Effective November 10, 1997, an organization is barred from enrollment if an owner or managerial official of the organization has been convicted of a crime~~

26. Personal care services. (continued)

~~specified in the state human services licensing act, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the reconsideration criteria specified in the state human services licensing act;~~

- ~~b) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provide proof thereof. The insurer must notify the Department of the cancellation or lapse of policy;~~
- ~~e) the organization must maintain the required statutory documentation of personal care assistant services in a recipient file, as well as evidence of compliance with personal care assistant training requirements and all notices to recipients regarding personal care assistant service use at a rate likely to exhaust authorized hours prior to the end of the authorization period;~~
- ~~d) the organization must communicate with the recipient or responsible party about the schedule for use of authorized hours; and~~
- ~~e) the organization must notify the recipient and county public health nurse in advance, on a Department form, if the monthly number of authorized hours is likely to exhaust the authorized hours prior to the end of the authorization period.~~
- ~~f) the organization shall comply with all laws and rules governing the provision of personal care assistant services.~~

26. Personal care services. (continued)**B. PCA Choice option**

~~PCA Choice is a consumer directed personal care service choice. The PCA Choice option allows the recipient to recruit, hire, terminate, train and supervise person care assistants.~~

~~"Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community, is at least 18 years old, actively participates in planning and directing of person care services and is not the personal care assistant.~~

~~"Qualified professional" means a registered nurse, mental health professional or licensed social worker providing supervision of personal care services and staff.~~

~~The recipient or responsible party:~~

~~a) uses a PCA Choice provider, not a personal care provider organization. A PCA Choice provider assists the recipient to account for covered personal care assistant services. A PCA Choice provider is considered a joint employer of the qualified professional described in item A and the personal care assistant, and may not be related to the recipient, qualified professional, or personal care assistant. A PCA Choice provider or owner of the entity providing PCA Choice services must pass a criminal background check according to the state human services licensing act;~~

~~b) if a qualified professional is requested, uses a qualified professional for help in developing and revising a service plan to meet the recipient's needs, as assessed by the public health nurse;~~

~~c) supervises the personal care assistant if the recipient or responsible party does not want a qualified professional to supervise the personal care assistant;~~

~~d) if the recipient or responsible party wants a qualified professional to supervise the personal care assistant, verifies and documents the credentials of the qualified professional, and then recruits, hires and, if necessary, terminates the qualified professional;~~

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26. Personal care services. (continued)

~~e) recruits, hires and, if necessary, terminates the personal care assistant;~~

~~f) with assistance from the qualified professional, orients and trains the personal care assistant;~~

~~g) with assistance as needed from the qualified professional or the recipient's physician, supervises and evaluates the personal care assistant;~~

~~h) monitors and verifies in writing the number of hours worked by the qualified professional and the personal care assistant; and~~

~~i) together with the PCA Choice provider, qualified professional, and personal care assistant, enters into a written agreement before services begin.~~

~~The agreement must include:~~

~~1) the duties of the recipient, PCA Choice provider, qualified professional, and personal care assistant;~~

~~2) the salary and benefits for the qualified professional and personal care assistant;~~

~~3) the administrative fee of the PCA Choice provider and services paid for with that fee, including background checks;~~

26. Personal care services. (continued)

~~4) procedures to respond to billing or payment complaints;  
and~~

~~5) procedures for hiring and terminating the qualified  
professional and personal care assistant.~~

~~The PCA Choice provider:~~

~~a) enrolls in medical assistance;~~

~~b) requests and secures background checks on qualified  
professionals and personal care assistants according to  
the state human services licensing act;~~

~~c) bills for personal care assistant and qualified  
professional services;~~

~~d) pays the qualified professional and personal care  
assistant based on actual hours of services provided;~~

~~e) withholds and pays all applicable federal and state  
taxes;~~

~~f) makes the arrangements and pays unemployment insurance,  
taxes, workers' compensation, liability insurance, and  
other benefits, if any;~~

~~g) maintains the required statutory documentation of  
personal care assistant services in a recipient file, as  
well as evidence of compliance with personal care  
assistant training requirements and all notice to  
recipients regarding personal care~~

26. Personal care services. (continued)

~~assistant service use at a rate likely to exhaust authorized hours prior to the end of the authorization period; and~~

~~h) ensures arm's length transactions with the recipient and personal care assistant.~~

~~i) the organization shall comply with all laws and rules governing the provision of personal care assistant services.~~

~~At a minimum, qualified professionals visit the recipient in the recipient's home at least once every year. Qualified professionals report to the appropriate authorities any suspected abuse, neglect, or financial exploitation of the recipient.~~

~~As part of the assessment and reassessment process in item 6.d.B. of this attachment, the following must be met to use, or continue to use, a PCA Choice provider:~~

~~a) the recipient must be able to direct the recipient's own care, or the responsible party for the recipient must be readily available to direct the care of the personal care assistant;~~

~~b) the recipient or responsible party must be knowledgeable of the health care needs of the recipient and be able to effectively communicate those needs;~~

~~c) effective August 1, 2002, the recipient who receives shared personal care assistant services (shared services) must use the same PCA Choice provider; and~~

26. Personal care services. (continued)

~~d) a service update cannot be used in lieu of an annual reassessment.~~

~~Authorization to use the PCA Choice option will be denied, revoked, or suspended if:~~

~~a) the public health nurse or qualified professional determines that use of this option jeopardizes the recipient's health and safety;~~

~~b) the parties do not comply with the written agreement; or~~

~~c) the use of the option results in abusive or fraudulent billing.~~

~~The recipient or responsible party may appeal this decision. A denial, revocation or suspension will not affect the recipient's authorized level of personal care assistant services.~~

**~~C. Amount, duration and scope of personal care services:~~**

~~• Department prior authorization is required for all personal care services and supervision services, if supervision is requested by the recipient or responsible party. Prior authorization is based on the physician's statement of need; the recipient's needs, diagnosis, and condition; an assessment of the recipient; primary payer coverage determination information as required; the service plan; and cost effectiveness when compared to other care options. The Department may authorize up to the following amounts of personal care services:~~

26. Personal care services. (continued)

- ~~a) up to 2 times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level;~~
- ~~b) up to 3 times the average number of direct care hours provided in nursing facilities for recipients with complex medical needs, or who are dependent in at least seven activities of daily living and need either physical assistance with eating or have a neurological diagnosis;~~
- ~~c) up to 60 percent of the average payment rate for care provided in a regional treatment center for recipients who exhibit, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors:
  - ~~1) self-injury;~~
  - ~~2) physical injury to others; or~~
  - ~~3) destruction of property;~~~~
- ~~d) up to the amount medical assistance would pay for care provided in a regional treatment center for recipients referred by a regional treatment center preadmission evaluation team; or~~
- ~~e) up to the amount medical assistance would pay for facility care for recipients referred by a long term care consultation team; and~~



26. Personal care services. (continued)

~~f) a reasonable amount of time for the provision of supervision of personal care assistant services, if a qualified professional is requested by the recipient or responsible party.~~

~~• Department prior authorization is also required if more than two reassessments to determine a recipient's need for personal care assistant services are needed during a calendar year.~~

~~• Personal care assistant services must be provided pursuant to a physician's statement of need. The statement of need must include the diagnosis or condition of the recipient and be updated when the recipient's medical condition requires a change, but at least annually if the need for services is ongoing. The service plan must be reviewed and revised as medically necessary at least once every 365 days.~~

~~For personal care assistant services:~~

~~a) effective July 1, 1996, the amount and type of service authorized based upon the assessment and service plan will follow the recipient if the recipient chooses to change providers;~~

~~b) effective July 1, 1996, if the recipient's medical need changes, the recipient's provider may request a change in service authorization; and~~

~~e) as of July 1, 1998, in order to continue to receive personal care assistant services after the first year, the recipient or the responsible party, in conjunction with the public health~~

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26. Personal care services. (continued)

~~nurse, may complete a service update on forms developed by the Department. If a service update is completed, it substitutes for the annual reassessment described in item 6.d.B. of this attachment, except that PCA Choice consumers must have a face-to-face assessment at least annually.~~

~~Recipients or responsible parties utilizing either PCA Choice or PCA provider organizations have the choice to request qualified professional supervision or to supervise the PCA themselves. A reasonable amount of time for the provision of supervision shall be authorized.~~

~~Personal care assistant services are provided for recipients who live in their own home if their own home is not a hospital, nursing facility, intermediate care facility for the mentally retarded (ICF/MR), institution for mental disease, or licensed health care facility.~~

~~Recipients may use approved units of service outside the home when normal life activities take them outside the home. Effective July 1, 1996, total hours for personal care assistant services, whether performed inside or outside a recipient's home, cannot exceed that which is otherwise allowed for personal care assistant services in an in-home setting.~~

~~Recipients may receive shared personal care assistant services (shared services), defined as providing personal care assistant services by a personal care assistant to two or three recipients at the same time and in the same setting. For purposes of this item, "setting" means the home or foster care home of one of the recipients, a child care program in~~

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26. Personal care services. (continued)

~~which all recipients served by one personal care assistant are participating, which has state licensure or is operated by a local school district or private school, or outside the home or foster care home when normal life activities take recipients outside the home or foster care home. The provider must offer the recipient or responsible party the option of shared services; if accepted, the recipient or responsible party may withdraw participation in shared services at any time.~~

~~If supervision of a personal care assistant by a qualified professional is requested by any one of the recipients or responsible parties, the supervision duties of the qualified professional are limited to only those recipients who requested the supervision. In addition to the documentation requirements for personal care provider service records in state rule, a personal care provider must meet documentation requirements for shared services and must document the following in the health service record for each recipient sharing services:~~

- ~~a) permission by the recipient or responsible party for the maximum number of shared services hours per week chosen by the recipient;~~
- ~~b) permission by the recipient or responsible party for personal care assistant services provided outside the recipient's home;~~
- ~~c) permission by the recipient or responsible party for others to receive shared services in the recipient's home;~~

26. Personal care services. (continued)

- ~~d) revocation by the recipient or responsible party of the shared service authorization, or the shared service to be provided to others in the recipient's home, or the shared services to be provided outside the recipient's home;~~
  
- ~~e) if a qualified professional is requested by any one of the recipients or responsible parties, supervision of the shared personal care assistant services by the qualified professional, including the date, time of day, number of hours spent supervising the provision of shared services, whether the supervision was face-to-face or another method of supervision, changes in the recipient's condition, and shared services scheduling issues and recommendations;~~
  
- ~~f) if a qualified professional is requested by any one of the recipients or responsible parties, documentation by the qualified professional of telephone calls or other discussions with the personal care assistant regarding services being provided to the recipient; and~~
  
- ~~g) daily documentation of the shared services provided by each identified personal care assistant including:
  - ~~1) the names of each recipient receiving shared services together;~~
  
  - ~~2) the setting for the shared services, including the starting and ending times that the recipient received shared services; and~~~~

26. Personal care services. (continued)

- ~~3) notes by the personal care assistant regarding changes in the recipient's condition, problems that may arise from the sharing of services, scheduling issues, care issues, and other notes as required by the qualified professional, if a qualified professional is requested by any one of the recipients or responsible parties.~~

~~In order to receive shared services:~~

~~a) the recipient or responsible party, in conjunction with the county public health nurse, must determine:~~

~~1) whether shared services is an appropriate option based on the individual needs and preferences of the recipient; and~~

~~2) the amount of shared services allocated as part of the overall authorization of personal care assistant services;~~

~~b) the recipient or responsible party, in conjunction with the supervising qualified professional (if a qualified professional is requested by any one of the recipients or responsible parties), must arrange the setting and grouping of shared services based on the individual needs and preferences of the recipients;~~

~~e) the recipient or responsible party, and the supervising qualified professional (if a qualified professional is requested by any one of the recipients or responsible parties), must~~

26. Personal care services. (continued)

~~— consider and document in the recipient's health service record;~~

~~— 1) the additional qualifications needed by the personal care assistant to provide care to several recipients in the same setting;~~

~~— 2) the additional training and supervision needed by the personal care assistant to ensure that the needs of the recipient are appropriately and safely met. If supervision by a qualified professional is requested by any one of the recipients or responsible parties, the provider must provide on-site supervision by a qualified professional within the first 14 days of shared services, and monthly thereafter;~~

~~— 3) the setting in which the shared services will be provided;~~

~~— 4) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting; and~~

~~— 5) a contingency plan that accounts for absence of the recipient in a shared services setting due to illness or other circumstances and staffing contingencies.~~

~~— The following personal care assistant services are covered under medical assistance as personal care assistant services:~~

26. Personal care services. (continued)

~~a) services and supports that assist in accomplishing activities of daily living. "Activities of daily living" include eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning;~~

~~b) services and supports that assist in accomplishing instrumental activities of daily living. "Instrumental activities of daily living" include meal planning and preparation, managing finances, shopping for food, clothing and other essential items, performing essential household chores, communication by telephone and other media, and participating in the community;~~

~~c) services and supports that assist in health-related functions through hands-on assistance, supervision, and cuing. "Health-related functions" means services that can be delegated or assigned by a licensed health care professional to be performed by a personal care assistant. These are provided under the supervision of a qualified professional or the direction of the recipient's physician; and~~

~~d) redirection and intervention for behavior including observation and monitoring.~~

~~A recipient may choose the flexible use option, which is the scheduled use of authorized hours of personal care assistant services, which vary within a service authorization period of up to six months. Authorized hours not used within the six-month period may not be carried over to another time period.~~

26. Personal care services. (continued)

Under the flexible use option:

- ~~a) a recipient or responsible party, the public health nurse, and, if the recipient is receiving case management services, the case manager, determine whether the flexible use option is appropriate.~~
- ~~b) if appropriate, the persons listed in item a) must ensure that the allocation of hours covers the ongoing needs of the recipient over an entire year divided into two six-month periods of flexible use.~~
- ~~c) the Department will not authorize additional services to supplement a service authorization that is exhausted before the end date under this option, unless the public health nurse determines a change in condition and a need for increased services is established.~~
- ~~d) the personal care provider organization and the recipient or responsible party, or the PCA Choice provider, must develop a written month-to-month plan of the projected use of personal care assistant services that is part of the care plan and ensures:
  - ~~1) that the health and safety needs of the recipient will be met;~~
  - ~~2) that the total annual authorization will not be used before the end of the authorization period; and~~~~



26. Personal care services. (continued)

- ~~3) monthly monitoring will be conducted of hours used as a percentage of the authorized amount.~~
  
- ~~e) the provider must notify the recipient or responsible party, the public health nurse, and any case manager in advance, on a Department form, if the monthly amount of hours used is likely to exhaust authorized hours prior to the end of the authorization period.~~
  
- ~~f) the Department will provide written notice to the provider, the recipient or responsible party, the public health nurse, and any case manager, when a flexible use recipient exceeds the month-to-month projected use of personal care assistant services as determined by the Department. If the use of hours exceeds the monthly service authorization by this amount for two months during any three-month period, the Department will notify the recipient and the public health nurse that the flexible use authorization will be revoked beginning the following month. However, this revocation is not implemented if, within ten working days of the Department's notice, the public health nurse requests prior authorization (which cannot exceed 45 days) for a temporary increase in the service authorization or continuation of the flexible use option, or the recipient appeals and services pending appeal is are ordered. The denial or revocation of the flexible use option does not affect the recipient's authorized level of personal care assistant services.~~
  
- ~~g) the recipient or responsible party may stop the flexible use of hours at any time.~~

26. Personal care services. (continued)

~~The following services are **not covered** under medical assistance as personal care assistant services:~~

~~a) health services provided and billed by a provider who is not an enrolled personal care provider;~~

~~b) personal care assistant services that are provided by the recipient's spouse, legal guardian, parent of a recipient under age 18, or the recipient's responsible party;~~

~~c) effective July 1, 1996, services provided by a foster care provider of a recipient who cannot direct his or her own care, unless a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met;~~

~~d) services provided by the residential or program license holder in a residence for more than four persons;~~

~~e) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;~~

~~f) sterile procedures;~~

~~g) giving of injections of fluids into veins, muscles, or skin;~~

~~h) homemaker services that are not an integral part of a personal care assistant service;~~

~~i) home maintenance or chore services;~~

26. Personal care services. (continued)

~~j) personal care assistant services when the number of foster care residents is greater than four;~~

~~k) personal care assistant services when other, more cost-effective, medically appropriate services are available;~~

~~l) services not specified as covered under medical assistance as personal care assistant services;~~

~~m) effective January 1, 1996, assessments by personal care provider organizations or by independently enrolled registered nurses;~~

~~n) effective July 1, 1996, services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided (applies to foster care settings);~~

~~o) effective January 1, 1996, personal care assistant services that are not in the service plan;~~

~~p) home care services to a recipient who is eligible for Medicare covered home care services (including hospice), if elected by the recipient, or any other insurance held by the recipient;~~

~~q) services to other members of the recipient's household;~~

~~r) any home care service included in the daily rate of the community-based residential facility where the recipient resides;~~

~~s) personal care assistant services that are provided without a physician's statement of need in the personal care provider agency's or PCA Choice provider's recipient file; or~~

~~t) services not authorized by the commissioner or the commissioner's designee.~~

26. Personal care services, continued, continued.

**I. Personal care services**

**A. Personal care services include:**

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

**B. Personal care services are provided as follows:**

1. Personal care services are provided for recipients who live in their own home if their own home is not a hospital, nursing facility, intermediate care facility for persons with mental retardation (ICF/MR), institution for mental disease, or licensed health care facility.
2. Recipients may use approved units of personal care service outside the home when normal life activities take them outside the home.
3. Personal care services are provided to a recipient who is able to direct his or her own care or to a recipient for whom there is a **responsible party** if the recipient cannot direct his or her own care.
  - a. A **responsible party** is a person who:

26. Personal care services, continued, continued.

- i. is knowledgeable about the health care needs of the recipient and is able to effectively communicate those needs;
  - ii. provides the support necessary to assist the recipient to live in the community;
  - iii. is at least 18 years old;
  - iv. actively participates in planning and directing personal care services;
  - v. is not the personal care assistant for the recipient, an owner or employee of a personal care provider agency or county staff acting as part of county employment;
  - vi. enters into a written agreement with a personal care assistance provider agency on a form determined by the commissioner to perform the duties of the responsible party.
- b. A responsible party is required for all recipients when:
- i. the recipient is a minor
  - ii. the recipient is an incapacitated adult with a court-appointed guardian;
  - iii. the assessment determines a recipient cannot direct their own care and is in need of a responsible party

**II. Provider Qualifications and training**

**A. Personal care services are provided by personal care provider agencies**

**1. A personal care provider agency means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes:**

- a. Personal care assistance provider agency;**
- b. Personal care assistance choice agency.**

26. Personal care services, continued, continued.

B. Personal care provider agencies must provide the following submissions for initial and ongoing enrollment:

1. Basic agency contact information;
2. Proof of a surety bond, fidelity bond, workers compensation insurance, and liability insurance;
3. Description of the agency's organization and employees identifying all owners, managing employees, board of directors, and the affiliations of the directors, owners, and staff to other service providers;
4. Documentation of compliance with background studies
5. Written policies including employee policies, service delivery policies and grievance policies;
6. Copies of forms used for daily business;
7. Documentation of trainings staff are required to attend;
8. Documentation of completion of required training;
9. Documentation of the agency's marketing practices;
10. Disclosure of ownership, leasing, or management of all residential properties;
11. Documentation of completion of DHS mandatory training by owners, all managing employees, and qualified professionals.

C. Personal care provider agency general duties

1. Pay the staff based on actual hours of services provided
2. Withhold and pay all applicable federal and state taxes
3. Report suspected neglect and abuse to the common entry point, which is an entity in each county serving as a 24 hour intake system for reports of potential abuse and maltreatment.
4. Provide the recipient with a copy of the Home Care Bill of Rights at start of service
5. Request reassessments at least 60 days prior to the end of the recipient's current authorization period.

D. Personal care provider agency criminal background studies

1. The following are required to have successfully completed criminal background studies:
  - a. owners who have a five percent interest or more

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26. Personal care services, continued

- b. all managing employees as defined in 42 CFR §455.101
- c. qualified professionals as defined on page 78y
- d. personal care assistants

2. A personal care provider agency is barred from enrollment if:

- a. The organization has not initiated background studies on owners and managing employees; or
- b. The organization has initiated background studies on owners and managing employees, but the commissioner has sent the organization a notice that an owner or managing employee of the organization has been disqualified and the owner or managing employee has not received a set aside of the disqualification.

3. Before a qualified professional employed by a personal care assistance provider agency provides services, the personal care assistance provider agency must initiate a background study on the qualified professional, and the personal care assistance provider agency must have received a notice from the commissioner that the qualified professional is:

- a. Not disqualified
- b. Disqualified, but the qualified professional has received a set aside of the disqualification.

4. Before a personal care assistant employed by a personal care assistance provider agency is enrolled with the department and provides services for a recipient, a background study must be initiated, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

- a. Not disqualified
- b. Disqualified, but the personal care assistant has received a set aside of the disqualification

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26. Personal care services, continued**E. Personal care Assistance Choice option**

1. "Personal Care Assistance Choice" is a consumer-directed personal care service option that allows recipients to recruit, hire, terminate, train and supervise their personal care assistants.
2. The enrollment requirements, general duties and policies governing personal care described on pages 78v and 78w apply to the Personal Care Assistance Choice Option with the following exceptions:
  - a. Annual assessments of recipients must be face-to-face.
  - b. Personal Care Assistance Choice provider agencies provide fiscal intermediary services which include administrative and financial responsibilities including collection of time cards, billing for services and payment to staff.
  - c. The recipient and the Personal Care Assistance Choice provider agency must enter into a written agreement that includes the following components:
    - Duties of the recipient, qualified professional, if applicable, personal care assistant, and agency
    - Salary and benefits
    - Administrative fee of the Personal Care Assistance Choice provider agency and services paid for with that fee
    - Grievance procedures to respond to complaints
    - Procedures for hiring and terminating the personal care assistant
    - Documentation requirements
  - d. The recipient is responsible for training the personal care assistant on his/her individual needs for assistance and for development of a care plan.
  - e. If using the shared service option, the recipients may use only one Personal Care Assistance Choice provider agency.
  - f. The Personal Care Assistance Choice provider agency must be the employer of personal care assistants and qualified professionals, subject to state employment law and related regulations;
  - g. The Personal Care Assistance Choice provider agency owners and managing employees must not be related as a parent, child, sibling, or spouse to the recipient, responsible party, qualified professional, or the personal care assistant;
  - h. The Personal Care Assistance Choice provider agency must ensure arms-length transactions without undue influence or coercion with the recipient and personal care assistant.
3. Under Personal Care Assistance Choice, qualified professionals must visit the recipient in the recipient's home at least once every 180 days. Qualified professionals report to the appropriate authorities any suspected abuse, neglect, or financial exploitation of the recipient.



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26. Personal care services, continued

4. Authorization to use the Personal Care Assistance Choice option will be denied, revoked, or suspended if:

- a. the public health nurse or qualified professional, as defined below in F.1., determines that use of this option jeopardizes the recipient's health and safety;
- b. the parties do not comply with the written agreement; or
- c. the use of the option results in abusive or fraudulent billing.

**F. Qualified Professionals**

1. "Qualified professional" means the following professionals as defined in state law employed by a personal care provider agency: a registered nurse, mental health professional, licensed social worker, or qualified developmental disability specialist.

2. A qualified professional performs the duties of training, supervision, and evaluation of the personal care assistance staff and evaluation of the effectiveness of personal care services. The qualified professional develops a care plan based on the service plan developed by the assessor.

3. Recipients or responsible parties utilizing either Personal Care Assistance Choice or personal care provider organizations can choose to have qualified professional supervision of personal care assistants or to supervise the personal care assistant themselves.

**G. Personal Care Assistants**

- 1. Must be at least 18 years of age, except that a 16 or 17 year old may be a personal care assistant if they meet all of the requirements for the position, have supervision every 60 days, and are employed by only one personal care provider agency;
- 2. Must be employed by a personal care provider agency;
- 3. Must enroll with the department after clearing a criminal background study
- 4. Must effectively communicate with the recipient and personal care provider agency
- 5. Must provide covered services according to the care plan, respond appropriately to recipient needs, and report changes to the

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26. Personal care services, continued

- physician or the qualified professional
- 6. Must not be a consumer of personal care services
- 7. Must maintain daily written records
- 8. Must report any suspected abuse, neglect or financial exploitation of the recipient to appropriate authorities.

**III. Amount, duration and scope of personal care services**

A. Assessment and Service Plan

- 1. A personal care service plan must be developed at least once every 365 days following an assessment by a public health nurse.
- 2. If the recipient's medical need changes, the recipient's personal care provider agency may request a change in service authorization or make a referral to another service.
- 3. In order to continue to receive personal care services after the first year, a service update may be completed. If a service update is completed, it substitutes for the annual reassessment described in item 6.d.B. of this Attachment, except that Personal Care Assistance Choice consumers must have a face-to-face assessment at least annually.

B. Prior authorization

- 1. Department authorization is required for all personal care services and supervision services.
- 2. Authorization is based on the recipient's needs, diagnosis, and condition; an assessment of the recipient; primary payer coverage determination information as required; the service plan; and cost effectiveness when compared to other care options.
- 3. The Department may authorize up to the following amounts of personal care services:
  - a. Up to 2 times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level;
  - b. Up to 3 times the average number of direct care hours provided

26. Personal care services, continued

in nursing facilities for recipients with complex medical needs, or who are dependent in at least seven activities of daily living and need either physical assistance with eating or have a neurological diagnosis;

c. up to 60 percent of the average payment rate for care provided in a regional treatment center for recipients who exhibit, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors:

- self-injury;
- physical injury to others; or
- destruction of property;

d. up to the amount medical assistance would pay for care provided in a regional treatment center for recipients referred by a regional treatment center preadmission evaluation team;

e. up to the amount medical assistance would pay for facility care for recipients referred by a long term care consultation team;

f. a reasonable amount of time for the provision of supervision of personal care services, if a qualified professional is requested by the recipient or responsible party.

4. Department authorization is also required if more than two reassessments are needed during a calendar year to determine a recipient's need for personal care assistant services.

C. Shared Service Option

1. "Shared Service Option" means personal care services provided in the same setting at the same time by the same personal care assistant for two or three recipients, including recipients selecting PCA Choice, who have entered into an agreement to share services,
2. The shared service option must be appropriate based on the ages of the recipients, compatibility, and coordination of their assessed care needs. A contingency plan must be developed that accounts for absence of a recipient in a shared services agreement due to illness or other circumstances.
3. The shared service option is elected by the recipient or responsible party. The recipient or responsible party may withdraw participation in shared services at any time.
4. There must be documentation of the shared services in each recipient's health record including the training of the personal care assistant, number of hours/units shared,

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26. Personal care services, continued

setting, and supervision of staff and services.

5. Each recipient sharing service must use the same personal care assistance provider agency.

D. Flexible Use of Personal Care Services

1. "Flexible Use" means the scheduled use of authorized hours of personal care services, which vary within a service authorization period of up to six months. The recipient/responsible party determines the schedule and communicates this to the personal care provider agency.

2. All recipients, except those assigned to the Minnesota Restricted Recipient program or who have the flexible use option revoked by the Department for misuse or abuse, may use their personal care services hours/units in a flexible manner to meet their needs within the following limits:

a. Total authorized hours/units must be divided between two six-month date spans.

b. No more than 75% of total authorized hours/units may be used in a six-month date span.

c. Health and safety must be assured.

d. Units cannot be transferred from one six-month date span to another.

e. Additional PCA hours/units cannot be added unless there is a change in condition.

3. The personal care provider agency qualified professional and the recipient or responsible party must develop a written month-to-month plan of the projected use of personal care assistant services that is part of the care plan and ensures the:

a. Health and safety needs of the recipient are met throughout both six-month authorization periods; and

b. Total hours will not exceed total hours authorized.

4. The provider agency shall monitor the use of personal care assistance services to ensure health and safety needs of the recipient are met throughout the authorization periods.

5. The Department will provide written notice to the provider and the recipient or responsible party when the recipient is at risk of exceeding the personal care assistance services prior to the end of the six-month date span.

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26. Personal care services, continued

6. The Department may take actions if there is misuse and abuse of flexible use of personal care services including, but not limited to:

- a. Revoking flexible use by limiting the authorization period to one month;
- b. Requiring a recipient to have a responsible party;
- c. Requiring a qualified professional to monitor and report services on a monthly basis.

IV. Services not covered under medical assistance as personal care services

A. Health services provided and billed by a provider who is not an enrolled personal care provider;

B. Personal care services that are provided by the recipient's spouse, paid legal guardian, parent of a recipient under age 18, or the recipient's responsible party;

C. Services that are used solely as a child care or babysitting service;

D. Services provided by the residential or program license holder in a residence licensed for more than four persons;

E. Services that are the responsibility or in the daily rate of a residential or program license holder under the terms of a service agreement and administrative rules;

F. Sterile procedures;

G. Giving of injections of fluids into veins, muscles, or skin;

H. Homemaker services that are not an integral part of a personal care service;

I. Home maintenance or chore services;

J. Personal care services when other, more cost-effective, medically appropriate services are available;

K. Services that are not in the individual's service plan;

L. Home care services to a recipient who is eligible for Medicare covered home care services (including hospice), if elected by the recipient, or any other insurance held by the recipient;

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26. Personal care services, continued

M. Services to other members of the recipient's household;

N. Services not specified as covered under medical assistance as personal care assistant services;

O. Application of restraints;

P. Assessments by personal care provider organizations or by independently enrolled registered nurses;

Q. Services provided in lieu of legally required staffing in a residential or child care setting; and

R. Services not authorized by the commissioner or the commissioner's designee.

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6.d. Other practitioners' services. (continued)

B. **Public health nursing services**, continued.

- a) documentation of health status;
- b) determination of need;
- c) identification of appropriate services;
- d) service plan development, including, if supervision by a qualified professional is requested, assisting the recipient or responsible party to identify the most appropriate qualified professional;
- e) coordination of services;
- f) referrals and follow-up to appropriate payers and community resources;
- g) completion of required reports;
- h) if a need is determined, recommendation and receipt of service authorization; and
- i) recipient education.

A face-to-face assessment is also required when there is a significant change in health status, when the recipient uses PCA Choice and after two phone service update assessments have been completed.

Reassessments are conducted, ~~in person,~~ at least annually or when there is a significant change in the recipient's condition and need for services. ~~If there is a change in the recipient's medical condition, a new physician's statement of need must be obtained.~~ The reassessment includes:

- a) a review of initial baseline data;
- b) an evaluation of service effectiveness;
- c) a redetermination of need for service;
- d) a modification of the service plan, if necessary, and appropriate referrals;
- e) an update of the initial forms;
- f) if a need is redetermined, recommendation and receipt of service authorization; and
- g) ongoing recipient education.

Service updates are conducted in lieu of an annual face-to-face reassessment when a recipient's condition or need for personal care assistant services has not changed

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7. Home health services.

- Covered home health services are those provided by a Medicare certified home health agency that complies with 42 CFR §§484.4 and 440.70, that are: (a) medically necessary health services; (b) ordered by a physician; (c) documented in a plan of care that is reviewed and revised as medically necessary by the physician at least once every 60 days; and (d) provided to the recipient at his or her own place of residence that is a place other than a hospital, nursing facility, or intermediate care facility for the mentally retarded (ICF/MR) unless skilled nurse visits have been prior authorized for less than 90 days for a resident at an ICF/MR in order to prevent an admission to a hospital or nursing facility and is not required to be provided by the facility under 42 CFR Part 483, subpart I.

"Professional nurse" refers to registered nurses and licensed practical nurses, all licensed under the Minnesota Nurse Practice Act.

- Home health services ~~includes~~ include the following: skilled nurse visits, home health aide visits, medical supplies, equipment and appliances; physical therapy; occupational therapy, speech pathology; audiology and skilled nurse visits provided via telehomecare. Telehomecare ~~which~~ is the use of live, two-way interactive audiovisual technology that can be augmented using store-and-forward technologies. Department ~~prior~~ authorization is required for telehomecare.

- Department ~~prior~~ authorization is required for home health aide visits or skilled nurse visits, ~~unless a physician has ordered such visits. and:~~

- a) ~~the registered nurse determines an immediate need for up to 40 home health aide visits or skilled nurse visits per calendar year and submits a request to the Department for authorization of payment within 20 working days of the initial service date, and medical assistance is the appropriate payer; or~~
- b) ~~this is the first through the ninth skilled nurse visit during a calendar year.~~

Department ~~prior~~ authorization is based on medical necessity, physician's orders, the recipient's needs, diagnosis, and condition, the plan of care, and cost-effectiveness when compared with other care options.



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7.a Intermittent or part-time nursing services provided by a home health agency, or by a registered nurse when no home health agency exists in the area.

- Covered intermittent or part-time nursing services are those provided by a Medicare-certified home health agency that are:
  - a) medically necessary;
  - b) ordered by a physician;
  - c) documented in a plan of care that is reviewed and revised as medically necessary by the physician at least once every 60 days; and
  - d) provided to the recipient at the recipient's own place of residence that is a place other than a hospital, nursing facility, or intermediate care facility for the mentally retarded (ICF/MR) unless skilled nurse visits have been prior authorized for less than 90 days for a resident at an ICF/MR in order to prevent an admission to a hospital or nursing facility and is not required to be provided by the facility under 42 CFR Part 483, subpart I.
- ~~Homemaker services, social services, educational services, and services not prescribed by the physician are not paid by medical assistance.~~
- Home health agencies or registered nurses that administer pediatric vaccines as noted in item 5.a., Physicians' services within the scope of their licensure must enroll in the Minnesota Vaccines for Children Program.
- Influenza and pneumococcal immunizations for adults may be administered through a standing order ~~are an exception to the requirement that home health services be ordered by a physician. If there is a standing order for these immunizations, they may be administered by a professional nurse per agency policy developed in consultation with a physician, and after an assessment for contraindications. The standing order includes an order from the physician, assessment criteria and contraindications for the immunizations. The professional nurse follows the standing order.~~

7.a Intermittent or part-time nursing services provided by a home health agency, or by a registered nurse when no home health agency exists in the area. (continued)

- Nurse visits are covered by medical assistance. The visits are provided in a recipient's residence under a plan of care or services plan that specifies a level of care that the nurse is qualified to provide. These services are:
  - a) nursing services according to the written plan of care or services plan and accepted standards of medical and nursing practice in accordance with State laws governing nursing licensure;
  - b) services that, due to the recipient's medical condition, may only be safely and effectively provided by a licensed practical nurse through a home health agency or a registered nurse;
  - c) assessments performed only by a registered nurse; and
  - d) teaching and training the recipient, the recipient's family, or other caregivers.
- The following services are not covered under medical assistance as intermittent or part-time nursing services:
  - a) nurse visits for the sole purpose of supervision of the home health aide;
  - b) a nursing visit that is:
    - i) only for the purpose of monitoring medication compliance with an established medication program; or
    - ii) to administer or assist with medication administration, including injections, prefilling syringes for injections, or oral medication set-up of an adult recipient, when as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient is physically and mentally able to self-

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7.a Intermittent or part-time nursing services provided by a home health agency, or by a registered nurse when no home health agency exists in the area. (continued)

administer or prefill a medication;

- c) a visit made by a nurse solely to train other home health agency workers;
- d) nursing services that can reasonably be obtained as outpatient services;
- e) Medicare evaluation or administrative nursing visits for dually eligible recipients that do not qualify for Medicare visit billing;
- f) skilled nurse visits (beyond the first nine ~~five~~ during a calendar year) that are not ~~prior~~ authorized; and
- g) nursing visits when not medically necessary-;
- h) homemaker services, social services, educational services, and services not prescribed by a physician.

Private duty nursing services.

- Private duty nursing services are only covered when medically necessary, ordered in writing by the physician, and documented in a written plan of care that is reviewed and revised as medically necessary by the physician at least once every 62 days.
- Private duty nursing services are not reimbursable if a skilled nurse visit is appropriate, or if a personal care assistant can be utilized.
- Private duty nursing services may also be provided by a parent of a minor child, family foster parent, spouse or unpaid legal guardian, who must be a professional nurse and employed by a licensed private duty nursing agency ~~and must be included in the plan of care under direction by the physician.~~
- Private duty nursing services may be provided by a licensed registered nurse or licensed practical nurse who is the recipient's spouse, legal guardian, family foster parent or parent of a minor child, if:
  - 1) the nurse passes a criminal background check;
  - 2) the services are necessary to prevent hospitalization of the recipient; and
  - 3) one of the following are met:
    - a the nurse resigns from a part-time or full-time job to provide nursing care for the recipient;
    - b. the nurse goes from a full-time job to a part-time job with less compensation for provide nursing care for the recipient;
    - c. the nurse takes a leave of absence without pay to provide nursing care for the recipient; or
    - d. because of labor condition, special language needs, or intermittent hours of nursing care needed, the nurse is needed in order to provide adequate to meets the medical needs of the recipient.
  - 4) Authorized private duty nursing services provided by a relative, family foster parent or unpaid legal guardian may not exceed 50 percent of the total approved nursing hours, or eight hours a day, whichever is less, up to a maximum of 40 hours per week regardless of the number of children or adults who receive services.
- Private duty nursing services includes ~~ongoing professional nursing services provided by licensed registered nurses or licensed practical nurses employed by a home health agency or self-employed~~ when the recipient requires more individualized and continuous care than can be provided during a skilled nurse visit, by licensed registered nurses or licensed practical nurses who are self-employed or employed by a class "A" licensed home care agency, as required by state law.
- Department ~~prior~~ authorization is required for all private duty nursing services. ~~Prior a~~Authorization is based on medical necessity; physician's orders; the recipient's needs, diagnosis, and condition; an assessment of the recipient; the plan of care; and cost-effectiveness when compared to alternative care options. For recipients who meet hospital admission criteria, the Department shall not authorize more

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8. Private duty nursing services. (continued)

than 16 hours per day of private duty nursing service with the following exceptions. ~~or~~ The Department may authorize up to 24 hours per day of private duty nursing service while a determination of eligibility is made for recipients who are applying for services under Minnesota's approved model home and community-based services waiver or during an appeal to the appropriate regulatory agency to determine if a health benefit plan is required to pay for medically necessary nursing services. For recipients who do not meet hospital admission criteria, the Department may authorize up to 9.75 hours per day of private duty nursing service. ~~Authorized private duty nursing services provided by a relative may not exceed 50 percent of the total approved nursing hours, or eight hours a day, whichever is less, up to a maximum of 40 hours per week.~~

Authorized units of private duty nursing service may be used in the recipient's home or outside of the recipient's home if normal life activities take the recipient outside of their home. To receive private duty nursing services at school, the recipient or his or her responsible party must provide written authorization in the recipient's care plan identifying the chosen provider and the daily amount of services to be used at school.

- Private duty nursing providers that are not Medicare certified must refer and document the referral of dual eligibles to Medicare providers when Medicare is the appropriate payer.

Recipients may receive shared private duty nursing services, defined as nursing services provided by a private duty nurse to two recipients at the same time and in the same setting at a reduced rate. Decisions on the selection of recipients to share private duty nursing services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

26. Personal care services.

~~Personal care services are provided by personal care provider organizations or by use of the PCA Choice option.~~

~~**A. Personal care provider organizations**~~

~~Personal care services provider qualifications:~~

~~• Personal care assistants must be employees of or under contract with a personal care provider organization or a fiscal intermediary (PCA Choice)~~

~~• If a recipient's diagnosis or condition changes, requiring a level of care beyond that which can be provided by a personal care provider, non-Medicare certified personal care providers must refer and document the referral of dual eligibles to Medicare providers (when Medicare is the appropriate payer).~~

~~• Personal care assistant means a person who:~~

~~a) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation;~~

~~b) is able to effectively communicate with the recipient and the personal care provider organization;~~

~~c) is able to and provides covered personal care assistant services according to the~~

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26. Personal care services. (continued)

~~recipient's plan of care, responds appropriately to the recipient's needs, and reports changes in the recipient's conditions to the physician or the supervising qualified professional if supervision is requested by the recipient. For the purposes of this item, "qualified professional" means a registered nurse, a mental health professional defined in item 6.d.A. of this attachment, or licensed social worker;~~

~~d) is not a consumer of personal care assistant services;~~

~~e) is subject to criminal background checks and procedures specified in the state human services licensing act; and~~

~~f) maintains daily written records for each recipient detailing the services provided and the amount of time spent providing the services.~~

~~Personal care provider organization means an entity enrolled to provide personal care services under medical assistance that complies with the following:~~

~~a) owners who have a five percent interest or more, and managerial officials are subject to a background study. This applies to currently enrolled personal care provider organizations and those entities seeking to enroll as a personal care provider organization. Effective November 10, 1997, an organization is barred from enrollment if an owner or managerial official of the organization has been convicted of a crime~~

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26. Personal care services. (continued)

~~specified in the state human services licensing act, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the reconsideration criteria specified in the state human services licensing act;~~

- ~~b) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provide proof thereof. The insurer must notify the Department of the cancellation or lapse of policy;~~
- ~~c) the organization must maintain the required statutory documentation of personal care assistant services in a recipient file, as well as evidence of compliance with personal care assistant training requirements and all notices to recipients regarding personal care assistant service use at a rate likely to exhaust authorized hours prior to the end of the authorization period;~~
- ~~d) the organization must communicate with the recipient or responsible party about the schedule for use of authorized hours; and~~
- ~~e) the organization must notify the recipient and county public health nurse in advance, on a Department form, if the monthly number of authorized hours is likely to exhaust the authorized hours prior to the end of the authorization period.~~
- ~~f) the organization shall comply with all laws and rules governing the provision of personal care assistant services.~~



26. Personal care services. (continued)

~~B. PCA Choice option~~

~~PCA Choice is a consumer directed personal care service choice. The PCA Choice option allows the recipient to recruit, hire, terminate, train and supervise person care assistants.~~

~~"Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community, is at least 18 years old, actively participates in planning and directing of person care services and is not the personal care assistant.~~

~~"Qualified professional" means a registered nurse, mental health professional or licensed social worker providing supervision of personal care services and staff.~~

~~The recipient or responsible party:~~

~~a) uses a PCA Choice provider, not a personal care provider organization. A PCA Choice provider assists the recipient to account for covered personal care assistant services. A PCA Choice provider is considered a joint employer of the qualified professional described in item A and the personal care assistant, and may not be related to the recipient, qualified professional, or personal care assistant. A PCA Choice provider or owner of the entity providing PCA Choice services must pass a criminal background check according to the state human services licensing act;~~

~~b) if a qualified professional is requested, uses a qualified professional for help in developing and revising a service plan to meet the recipient's needs, as assessed by the public health nurse;~~

~~c) supervises the personal care assistant if the recipient or responsible party does not want a qualified professional to supervise the personal care assistant;~~

~~d) if the recipient or responsible party wants a qualified professional to supervise the personal care assistant, verifies and documents the credentials of the qualified professional, and then recruits, hires and, if necessary, terminates the qualified professional;~~

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26. Personal care services. (continued)

~~e) recruits, hires and, if necessary, terminates the personal care assistant;~~

~~f) with assistance from the qualified professional, orients and trains the personal care assistant;~~

~~g) with assistance as needed from the qualified professional or the recipient's physician, supervises and evaluates the personal care assistant;~~

~~h) monitors and verifies in writing the number of hours worked by the qualified professional and the personal care assistant; and~~

~~i) together with the PCA Choice provider, qualified professional, and personal care assistant, enters into a written agreement before services begin.~~

~~The agreement must include:~~

~~1) the duties of the recipient, PCA Choice provider, qualified professional, and personal care assistant;~~

~~2) the salary and benefits for the qualified professional and personal care assistant;~~

~~3) the administrative fee of the PCA Choice provider and services paid for with that fee, including background checks;~~

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26. Personal care services. (continued)

~~4) procedures to respond to billing or payment complaints; and~~

~~5) procedures for hiring and terminating the qualified professional and personal care assistant.~~

~~The PCA Choice provider:~~

~~a) enrolls in medical assistance;~~

~~b) requests and secures background checks on qualified professionals and personal care assistants according to the state human services licensing act;~~

~~c) bills for personal care assistant and qualified professional services;~~

~~d) pays the qualified professional and personal care assistant based on actual hours of services provided;~~

~~e) withholds and pays all applicable federal and state taxes;~~

~~f) makes the arrangements and pays unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;~~

~~g) maintains the required statutory documentation of personal care assistant services in a recipient file, as well as evidence of compliance with personal care assistant training requirements and all notice to recipients regarding personal care~~

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26. Personal care services. (continued)

~~assistant service use at a rate likely to exhaust authorized hours prior to the end of the authorization period; and~~

~~i) ensures arm's length transactions with the recipient and personal care assistant.~~

~~i) the organization shall comply with all laws and rules governing the provision of personal care assistant services.~~

~~At a minimum, qualified professionals visit the recipient in the recipient's home at least once every year. Qualified professionals report to the appropriate authorities any suspected abuse, neglect, or financial exploitation of the recipient.~~

~~As part of the assessment and reassessment process in item 6.d.B. of this attachment, the following must be met to use, or continue to use, a PCA Choice provider:~~

~~a) the recipient must be able to direct the recipient's own care, or the responsible party for the recipient must be readily available to direct the care of the personal care assistant;~~

~~b) the recipient or responsible party must be knowledgeable of the health care needs of the recipient and be able to effectively communicate those needs;~~

~~c) effective August 1, 2002, the recipient who receives shared personal care assistant services (shared services) must use the same PCA Choice provider; and~~

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26. Personal care services. (continued)

~~d) a service update cannot be used in lieu of an annual reassessment.~~

~~Authorization to use the PCA Choice option will be denied, revoked, or suspended if:~~

~~a) the public health nurse or qualified professional determines that use of this option jeopardizes the recipient's health and safety;~~

~~b) the parties do not comply with the written agreement;  
or~~

~~c) the use of the option results in abusive or fraudulent billing.~~

~~The recipient or responsible party may appeal this decision. A denial, revocation or suspension will not affect the recipient's authorized level of personal care assistant services.~~

~~**C. Amount, duration and scope of personal care services:**~~

~~• Department prior authorization is required for all personal care services and supervision services, if supervision is requested by the recipient or responsible party. Prior authorization is based on the physician's statement of need; the recipient's needs, diagnosis, and condition; an assessment of the recipient; primary payer coverage determination information as required; the service plan; and cost effectiveness when compared to other care options. The Department may authorize up to the following amounts of personal care services:~~

26. Personal care services. (continued)

~~a) up to 2 times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level;~~

~~b) up to 3 times the average number of direct care hours provided in nursing facilities for recipients with complex medical needs, or who are dependent in at least seven activities of daily living and need either physical assistance with eating or have a neurological diagnosis;~~

~~e) up to 60 percent of the average payment rate for care provided in a regional treatment center for recipients who exhibit, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors:~~

~~1) self-injury;~~

~~2) physical injury to others; or~~

~~3) destruction of property;~~

~~d) up to the amount medical assistance would pay for care provided in a regional treatment center for recipients referred by a regional treatment center preadmission evaluation team; or~~

~~e) up to the amount medical assistance would pay for facility care for recipients referred by a long term care consultation team; and~~

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26. Personal care services. (continued)

~~f) a reasonable amount of time for the provision of supervision of personal care assistant services, if a qualified professional is requested by the recipient or responsible party.~~

~~• Department prior authorization is also required if more than two reassessments to determine a recipient's need for personal care assistant services are needed during a calendar year.~~

~~• Personal care assistant services must be provided pursuant to a physician's statement of need. The statement of need must include the diagnosis or condition of the recipient and be updated when the recipient's medical condition requires a change, but at least annually if the need for services is ongoing. The service plan must be reviewed and revised as medically necessary at least once every 365 days.~~

~~For personal care assistant services:~~

~~a) effective July 1, 1996, the amount and type of service authorized based upon the assessment and service plan will follow the recipient if the recipient chooses to change providers;~~

~~b) effective July 1, 1996, if the recipient's medical need changes, the recipient's provider may request a change in service authorization; and~~

~~e) as of July 1, 1998, in order to continue to receive personal care assistant services after the first year, the recipient or the responsible party, in conjunction with the public health~~

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26. Personal care services. (continued)

~~nurse, may complete a service update on forms developed by the Department. If a service update is completed, it substitutes for the annual reassessment described in item 6.d.B. of this attachment, except that PCA Choice consumers must have a face-to-face assessment at least annually.~~

~~• Recipients or responsible parties utilizing either PCA Choice or PCA provider organizations have the choice to request qualified professional supervision or to supervise the PCA themselves. A reasonable amount of time for the provision of supervision shall be authorized.~~

~~• Personal care assistant services are provided for recipients who live in their own home if their own home is not a hospital, nursing facility, intermediate care facility for the mentally retarded (ICF/MR), institution for mental disease, or licensed health care facility.~~

~~• Recipients may use approved units of service outside the home when normal life activities take them outside the home. Effective July 1, 1996, total hours for personal care assistant services, whether performed inside or outside a recipient's home, cannot exceed that which is otherwise allowed for personal care assistant services in an in-home setting.~~

~~• Recipients may receive shared personal care assistant services (shared services), defined as providing personal care assistant services by a personal care assistant to two or three recipients at the same time and in the same setting. For purposes of this item, "setting" means the home or foster care home of one of the recipients, a child care program in~~



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26. Personal care services. (continued)

~~which all recipients served by one personal care assistant are participating, which has state licensure or is operated by a local school district or private school, or outside the home or foster care home when normal life activities take recipients outside the home or foster care home. The provider must offer the recipient or responsible party the option of shared services; if accepted, the recipient or responsible party may withdraw participation in shared services at any time.~~

~~If supervision of a personal care assistant by a qualified professional is requested by any one of the recipients or responsible parties, the supervision duties of the qualified professional are limited to only those recipients who requested the supervision. In addition to the documentation requirements for personal care provider service records in state rule, a personal care provider must meet documentation requirements for shared services and must document the following in the health service record for each recipient sharing services:~~

- ~~a) permission by the recipient or responsible party for the maximum number of shared services hours per week chosen by the recipient;~~
- ~~b) permission by the recipient or responsible party for personal care assistant services provided outside the recipient's home;~~
- ~~c) permission by the recipient or responsible party for others to receive shared services in the recipient's home;~~

26. Personal care services. (continued)

~~d) revocation by the recipient or responsible party of the shared service authorization, or the shared service to be provided to others in the recipient's home, or the shared services to be provided outside the recipient's home;~~

~~e) if a qualified professional is requested by any one of the recipients or responsible parties, supervision of the shared personal care assistant services by the qualified professional, including the date, time of day, number of hours spent supervising the provision of shared services, whether the supervision was face-to-face or another method of supervision, changes in the recipient's condition, and shared services scheduling issues and recommendations;~~

~~f) if a qualified professional is requested by any one of the recipients or responsible parties, documentation by the qualified professional of telephone calls or other discussions with the personal care assistant regarding services being provided to the recipient; and~~

~~g) daily documentation of the shared services provided by each identified personal care assistant including:~~

~~1) the names of each recipient receiving shared services together;~~

~~2) the setting for the shared services, including the starting and ending times that the recipient received shared services; and~~

26. Personal care services. (continued)

- ~~3) notes by the personal care assistant regarding changes in the recipient's condition, problems that may arise from the sharing of services, scheduling issues, care issues, and other notes as required by the qualified professional, if a qualified professional is requested by any one of the recipients or responsible parties.~~

~~In order to receive shared services:~~

- ~~a) the recipient or responsible party, in conjunction with the county public health nurse, must determine:~~

~~2) whether shared services is an appropriate option based on the individual needs and preferences of the recipient; and~~

~~2) the amount of shared services allocated as part of the overall authorization of personal care assistant services;~~

- ~~b) the recipient or responsible party, in conjunction with the supervising qualified professional (if a qualified professional is requested by any one of the recipients or responsible parties), must arrange the setting and grouping of shared services based on the individual needs and preferences of the recipients;~~

- ~~e) the recipient or responsible party, and the supervising qualified professional (if a qualified professional is requested by any one of the recipients or responsible parties), must~~

26. Personal care services. (continued)

~~— consider and document in the recipient's health service record:~~

~~— 1) the additional qualifications needed by the personal care assistant to provide care to several recipients in the same setting;~~

~~— 2) the additional training and supervision needed by the personal care assistant to ensure that the needs of the recipient are appropriately and safely met. If supervision by a qualified professional is requested by any one of the recipients or responsible parties, the provider must provide on-site supervision by a qualified professional within the first 14 days of shared services, and monthly thereafter;~~

~~— 4) the setting in which the shared services will be provided;~~

~~— 4) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting; and~~

~~— 5) a contingency plan that accounts for absence of the recipient in a shared services setting due to illness or other circumstances and staffing contingencies.~~

~~— The following personal care assistant services are covered under medical assistance as personal care assistant services:~~

26. Personal care services. (continued)

- ~~a) services and supports that assist in accomplishing activities of daily living. "Activities of daily living" include eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning;~~
- ~~b) services and supports that assist in accomplishing instrumental activities of daily living. "Instrumental activities of daily living" include meal planning and preparation, managing finances, shopping for food, clothing and other essential items, performing essential household chores, communication by telephone and other media, and participating in the community;~~
- ~~e) services and supports that assist in health-related functions through hands-on assistance, supervision, and cuing. "Health-related functions" means services that can be delegated or assigned by a licensed health care professional to be performed by a personal care assistant. These are provided under the supervision of a qualified professional or the direction of the recipient's physician; and~~
- ~~d) redirection and intervention for behavior including observation and monitoring.~~

~~A recipient may choose the flexible use option, which is the scheduled use of authorized hours of personal care assistant services, which vary within a service authorization period of up to six months. Authorized hours not used within the six-month period may not be carried over to another time period.~~

26. Personal care services. (continued)

~~Under the flexible use option:~~

- ~~a) a recipient or responsible party, the public health nurse, and, if the recipient is receiving case management services, the case manager, determine whether the flexible use option is appropriate.~~
- ~~b) if appropriate, the persons listed in item a) must ensure that the allocation of hours covers the ongoing needs of the recipient over an entire year divided into two six-month periods of flexible use.~~
- ~~c) the Department will not authorize additional services to supplement a service authorization that is exhausted before the end date under this option, unless the public health nurse determines a change in condition and a need for increased services is established.~~
- ~~d) the personal care provider organization and the recipient or responsible party, or the PCA Choice provider, must develop a written month-to-month plan of the projected use of personal care assistant services that is part of the care plan and ensures:
  - ~~1) that the health and safety needs of the recipient will be met;~~
  - ~~2) that the total annual authorization will not be used before the end of the authorization period; and~~~~

26. Personal care services. (continued)

- ~~3) monthly monitoring will be conducted of  
hours used as a percentage of the authorized amount.~~
  
- ~~e) the provider must notify the recipient or  
responsible party, the public health nurse, and any case  
manager in advance, on a Department form, if the monthly  
amount of hours used is likely to exhaust authorized hours  
prior to the end of the authorization period.~~
  
- ~~f) the Department will provide written notice to the provider,  
the recipient or responsible party, the public health  
nurse, and any case manager, when a flexible use recipient  
exceeds the month-to-month projected use of personal care  
assistant services as determined by the Department. If the  
use of hours exceeds the monthly service authorization by  
this amount for two months during any three-month period,  
the Department will notify the recipient and the public  
health nurse that the flexible use authorization will be  
revoked beginning the following month. However, this  
revocation is not implemented if, within ten working days  
of the Department's notice, the public health nurse  
requests prior  
authorization (which cannot exceed 45 days) for a temporary  
increase in the service authorization or continuation of  
the flexible use option, or the recipient appeals and  
services pending appeal is are ordered. The denial or  
revocation of the flexible use option does not affect the  
recipient's authorized level of personal care assistant  
services.~~
  
- ~~g) the recipient or responsible party may stop the flexible  
use of hours at any time.~~

26. Personal care services. (continued)

~~The following services are **not covered** under medical assistance as personal care assistant services:~~

~~a) health services provided and billed by a provider who is not an enrolled personal care provider;~~

~~b) personal care assistant services that are provided by the recipient's spouse, legal guardian, parent of a recipient under age 18, or the recipient's responsible party;~~

~~c) effective July 1, 1996, services provided by a foster care provider of a recipient who cannot direct his or her own care, unless a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met;~~

~~d) services provided by the residential or program license holder in a residence for more than four persons;~~

~~e) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;~~

~~f) sterile procedures;~~

~~g) giving of injections of fluids into veins, muscles, or skin;~~

~~h) homemaker services that are not an integral part of a personal care assistant service;~~

~~i) home maintenance or chore services;~~



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26. Personal care services. (continued)

~~j) personal care assistant services when the number of foster care residents is greater than four;~~

~~k) personal care assistant services when other, more cost-effective, medically appropriate services are available;~~

~~l) services not specified as covered under medical assistance as personal care assistant services;~~

~~m) effective January 1, 1996, assessments by personal care provider organizations or by independently enrolled registered nurses;~~

~~n) effective July 1, 1996, services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided (applies to foster care settings);~~

~~o) effective January 1, 1996, personal care assistant services that are not in the service plan;~~

~~p) home care services to a recipient who is eligible for Medicare covered home care services (including hospice), if elected by the recipient, or any other insurance held by the recipient;~~

~~q) services to other members of the recipient's household;~~

~~r) any home care service included in the daily rate of the community-based residential facility where the recipient resides;~~

~~s) personal care assistant services that are provided without a physician's statement of need in the personal care provider agency's or PCA Choice provider's recipient file; or~~

~~t) services not authorized by the commissioner or the commissioner's designee.~~

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26. Personal care services, continued, continued.

**I. Personal care services**

A. Personal care services include assistance in:

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

B. Personal care services are provided as follows:

1. Personal care services are provided for recipients who live in their own home if their own home is not a hospital, nursing facility, intermediate care facility for persons with mental retardation (ICF/MR), institution for mental disease, or licensed health care facility.
2. Recipients may use approved units of personal care service outside the home when normal life activities take them outside the home.
3. Personal care services are provided to a recipient who is able to direct his or her own care or to a recipient for whom there is a **responsible party** if the recipient cannot direct his or own care.
  - a. A **responsible party** is a person who

26. Personal care services, continued, continued.

- i. Is knowledgeable about the health care needs of the recipient and is able to effectively communicate those needs;
  - ii. Provides the support necessary to assist the recipient to live in the community;
  - iii. Is at least 18 years old;
  - iv. Actively participates in planning and directing personal care services;
  - v. Is not the personal care assistant for the recipient, an owner or employee of a personal care provider agency or county staff acting as part of county employment;
  - vi. Enters into a written agreement with a personal care assistance provider agency on a form determined by the commissioner to perform the duties of the responsible party.
- b. A responsible party is required for all recipients when:
- i. the recipient is a minor
  - ii. the recipient is an incapacitated adult with a court-appointed guardian;
  - iii. the assessment determines a recipient cannot direct their own care and is in need of a responsible party

**II. Provider Qualifications and training**

A. Personal care services are provided by **personal care provider agencies**

1. A **personal care provider agency** means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes:

- a. Personal care assistance provider agency;
- b. Personal care assistance choice agency.

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26. Personal care services, continued, continued.

B. Personal care provider agencies must provide the following submissions for initial and ongoing enrollment of personal care provider agencies:

1. Basic agency contact information;
2. Proof of a surety bond, fidelity bond, workers compensation insurance, and liability insurance;
3. Description of the agency's organization and employees identifying all owners, managing employees, board of directors, and the affiliations of the directors, owners, and staff to other service providers;
4. Documentation of compliance with background studies
5. Written policies including employee policies, service delivery policies and grievance policies;
6. Copies of forms used for daily business;
7. Documentation of trainings staff are required to attend;
8. Documentation of completion of required training;
9. Documentation of the agency's marketing practices;
10. Disclosure of ownership, leasing, or management of all residential properties;
11. Documentation of completion of DHS mandatory training by owners, all managing employees, and qualified professionals.

C. Personal care provider agency general duties

1. Pay the staff based on actual hours of services provided
2. Withhold and pay all applicable federal and state taxes
3. Report suspected neglect and abuse to the common entry point, which is an entity in each county serving as a 24 hour intake system for reports of potential abuse and maltreatment.
4. Provide the recipient with a copy of the Home Care Bill of Rights at start of service
5. Request reassessments at least 60 days prior to the end of the recipient's current authorization period.

D. Personal care provider agency criminal background studies

1. The following are required to have successfully completed criminal background studies:
  - a. owners who have a five percent interest or more

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26. Personal care services, continued

- b. all managing employees as defined in 42 CFR §455.101
- c. qualified professionals as defined on page 77y
- d. personal care assistants

2. A personal care provider agency is barred from enrollment if:

- a. The organization has not initiated background studies on owners and managing employees; or
- b. The organization has initiated background studies on owners and managing employees, but the commissioner has sent the organization a notice that an owner or managing employee of the organization has been disqualified and the owner or managing employee has not received a set aside of the disqualification.

3. Before a qualified professional employed by a personal care assistance provider agency provides services, the personal care assistance provider agency must initiate a background study on the qualified professional, and the personal care assistance provider agency must have received a notice from the commissioner that the qualified professional is:

- a. Not disqualified
- b. Disqualified, but the qualified professional has received a set aside of the disqualification.

4. Before a personal care assistant employed by a personal care assistance provider agency is enrolled with the department and provides services for a recipient, a background study must be initiated, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

- a. Not disqualified
- b. Disqualified, but the personal care assistant has received a set aside of the disqualification

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26. Personal care services, continued

**E. Personal care Assistance Choice option**

1. "Personal Care Assistance Choice" is a consumer-directed personal care service option that allows recipients to recruit, hire, terminate, train and supervise their personal care assistants.
2. The enrollment requirements, general duties and policies governing personal care described on pages 77v and 77w apply to the Personal Care Assistance Choice Option with the following exceptions:
  - a. Annual assessments of recipients must be face-to-face.
  - b. Personal Care Assistance Choice provider agencies provide fiscal intermediary services which include administrative and financial responsibilities including collection of time cards, billing for services and payment to staff.
  - c. The recipient and the Personal Care Assistance Choice provider agency must enter into a written agreement that includes the following components:
    - Duties of the recipient, qualified professional, if applicable, personal care assistant, and agency
    - Salary and benefits
    - Administrative fee of the Personal Care Assistance Choice provider agency and services paid for with that fee
    - Grievance procedures to respond to complaints
    - Procedures for hiring and terminating the personal care assistant
    - Documentation requirements
  - d. The recipient is responsible for training the personal care assistant on his/her individual needs for assistance and for development of a care plan.
  - e. If using the shared service option, the recipients may use only one Personal Care Assistance Choice Provider Agency.
  - f. The Personal Care Assistance Choice provider must be the employer of personal care assistants and qualified Professionals, subject to state employment law and related regulations;
  - g. The Personal Care Assistance Choice provider agency owners and managing employees must not be related as a parent, child, sibling, or spouse to the recipient, responsible party, qualified professional, or the personal care assistant;
  - h. The Personal Care Assistance choice provider agency must ensure arms-length transactions without undue influence or coercion with the recipient and personal care assistant.
3. Under Personal Care Assistance Choice, qualified professionals must visit the recipient in the recipient's home at least once every 180 days. Qualified professionals report to the appropriate

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26. Personal care services, continued

authorities any suspected abuse, neglect, or financial exploitation of the recipient.

4. Authorization to use the Personal Care Assistance Choice option will be denied, revoked, or suspended if:

- a. the public health nurse or qualified professional, as defined below in F.!, determines that use of this option jeopardizes the recipient's health and safety;
- b. the parties do not comply with the written agreement; or
- c. the use of the option results in abusive or fraudulent billing.

**F. Qualified Professionals**

1. "Qualified professional" means the following professionals as defined in state law employed by a personal care provider agency: a registered nurse, mental health professional, licensed social worker, or qualified developmental disability specialist.

2. A qualified professional performs the duties of training, supervision, and evaluation of the personal care assistance staff and evaluation of the effectiveness of personal care services. The qualified professional develops a care plan based on the service plan developed by the assessor.

3. Recipients or responsible parties utilizing either Personal Care Assistance Choice or personal care provider organizations can choose to have qualified professional supervision of personal care assistants or to supervise the personal care assistant themselves.

**G. Personal Care Assistants**

- 1. Must be at least 18 years of age, except that a 16 or 17 year old may be a personal care assistant if they meet all of the requirements for the position, have supervision every 60 days, and are employed by only one personal care provider agency;
- 2. Must be employed by a personal care provider agency;
- 3. Must enroll with the department after clearing a criminal background study
- 4. Must effectively communicate with the recipient and personal care provider agency
- 5. Must provide covered services according to the care plan, respond appropriately to recipient needs, and report changes to the

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26. Personal care services, continued

physician or the qualified professional

6. Must not be a consumer of personal care services

7. Must maintain daily written records

8. Must report any suspected abuse, neglect or financial exploitation of the recipient to appropriate authorities.

**III. Amount, duration and scope of personal care services**

A. Assessment and Service Plan

1. A personal care service plan must be developed at least once every 365 days following an assessment by a public health nurse.

2. If the recipient's medical need changes, the recipient's personal care provider agency may request a change in service authorization or make a referral to another service.

3. In order to continue to receive personal care services after the first year, a service update must be completed. If a service update is completed, it substitutes for the annual reassessment described in item 6.d.B. of this Attachment, except that Personal Care Assistance Choice consumers must have a face-to-face assessment at least annually.

B. Prior authorization

1. Department authorization is required for all personal care services and supervision services.

2. Authorization is based on the recipient's needs, diagnosis, and condition; an assessment of the recipient; primary payer coverage determination information as required; the service plan; and cost effectiveness when compared to other care options.

3. The Department may authorize up to the following amounts of personal care services:

a. Up to 2 times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level;

b. Up to 3 times the average number of direct care hours provided



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26. Personal care services, continued

in nursing facilities for recipients with complex medical needs, or who are dependent in at least seven activities of daily living and need either physical assistance with eating or have a neurological diagnosis;

c. up to 60 percent of the average payment rate for care provided in a regional treatment center for recipients who exhibit, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors:

- self-injury;
- physical injury to others; or
- destruction of property;

d. up to the amount medical assistance would pay for care provided in a regional treatment center for recipients referred by a regional treatment center preadmission evaluation team;

e. up to the amount medical assistance would pay for facility care for recipients referred by a long term care consultation team;

f. a reasonable amount of time for the provision of supervision of personal care services, if a qualified professional is requested by the recipient or responsible party.

4. Department authorization is also required if more than two reassessments are needed during a calendar year to determine a recipient's need for personal care assistant services.

**C. Shared Service Option**

1. "Shared Service Option" means personal care services provided in the same setting at the same time by the same personal care assistant for two or three recipients, including recipients selecting PCA Choice, who have entered into an agreement to share services.
2. The shared service option must be appropriate based on the ages of the recipients, compatibility, and coordination of their assessed care needs. A contingency plan must be developed that accounts for absence of a recipient in a shared services agreement due to illness or other circumstances.
3. The shared service option is elected by the recipient or responsible party. The recipient or responsible party may withdraw participation in shared services at any time.
4. There must be documentation of the shared services in each recipient's health record including the training of the personal care assistant, number of hours/units shared,

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26. Personal care services, continued

setting, and supervision of staff and services.

5. Each recipient sharing service must use the same personal care assistance provider agency.

D. Flexible Use of Personal Care Services

1. "Flexible Use" means the scheduled use of authorized hours of personal care services, which vary within a service authorization period of up to six months. The recipient/responsible party determines the schedule and communicates this to the personal care provider agency.
2. All recipients, except those assigned to the Minnesota Restricted Recipient program or who have the flexible use option revoked by the Department for misuse or abuse, may use their personal care services hours/units in a flexible manner to meet their needs within the following limits:
  - a. Total authorized hours/units must be divided between two six-month date spans.
  - b. No more than 75% of total authorized hours/units may be used in a six-month date span.
  - c. Health and safety must be assured.
  - d. Units cannot be transferred from one six-month date span to another.
  - e. Additional PCA hours/units cannot be added unless there is a change in condition.
3. The personal care provider agency qualified professional and the recipient or responsible party must develop a written month-to-month plan of the projected use of personal care assistant services that is part of the care plan and ensures the:
  - a. Health and safety needs of the recipient are met throughout both date six-month authorization spans; and
  - b. Total hours will not exceed total hours authorized.
4. The provider agency shall monitor the use of personal care assistance services to ensure health and safety needs of the recipient are met throughout the authorization period.
5. The Department will provide written notice to the provider, the recipient or responsible party when the recipient is at risk of exceeding the personal care assistance services prior to the end of the six-month date span.

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26. Personal care services, continued

6. The Department may take actions if there is misuse and abuse of flexible use of personal care services including, but not limited to:

- a. Revoking flexible use by limiting the authorization period to one month;
- b. Requiring a recipient to have a responsible party;
- c. Requiring a qualified professional to monitor and report services on a monthly basis.

IV. Services not covered under medical assistance as personal care services

A. Health services provided and billed by a provider who is not an enrolled personal care provider;

B. Personal care services that are provided by the recipient's spouse, paid legal guardian, parent of a recipient under age 18, or the recipient's responsible party;

C. Services that are used solely as a child care or babysitting service;

D. Services provided by the residential or program license holder in a residence licensed for more than four persons;

E. Services that are the responsibility or in the daily rate of a residential or program license holder under the terms of a service agreement and administrative rules;

F. Sterile procedures;

G. Giving of injections of fluids into veins, muscles, or skin;

H. Homemaker services that are not an integral part of a personal care service;

I. Home maintenance or chore services;

J. Personal care services when other, more cost-effective, medically appropriate services are available;

K. Services that are not in the individual's service plan;

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26. Personal care services, continued

L. Home care services to a recipient who is eligible for Medicare covered home care services (including hospice), if elected by the recipient, or any other insurance held by the recipient;

M. Services to other members of the recipient's household;

N. Services not specified as covered under medical assistance as personal care assistant services;

O. Application of restraints;

P. Assessments by personal care provider organizations or by independently enrolled registered nurses;

Q. Services provided in lieu of legally required staffing in a residential or child care setting; and

R. Services not authorized by the commissioner or the commissioner's designee.

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6.d. Other practitioners' services. (continued)

The rates for public health nurse assessments for personal care services are as follows:

Service	7/1/00	7/1/01	7/1/02	10/1/05	10/1/06	10/1/07	7/1/08	10/1/08	7/1/09
Initial Public Health Nursing Assessment Visit for Personal Care Services (in-person)	\$232.06 /Visit	\$239.02 /visit	\$246.19 /visit	\$251.74 /visit	\$257.42 /visit	\$262.57 /visit	\$262.57 /visit	\$267.82 /visit	<u>\$260.91 /visit</u>
Public Health Nursing Reassessment Visit for Personal Care Services submitted prior to the end date of current PCA service authorization	\$232.06 / Visit	\$239.02 / visit	\$246.19 / visit	\$251.74/ visit	\$257.42	\$262.57	\$262.57	\$267.82	<u>\$260.91 /visit</u>
Public Health Nursing Service Update submitted prior to the end date of current PCA service authorization	\$116.03 / update	\$119.51 / Update	\$123.10 / update	\$125.88/ visit	\$128.72	\$131.29	\$131.29	\$133.92	<u>\$130.46 /visit</u>
Public Health Nursing Reassessment Visit for PCA Services submitted after the end date of current PCA service authorization.							\$196.93	\$200.86	<u>\$195.68</u>
Public Health Nursing Service Update submitted after the end date of current PCA service authorization.							\$98.47	\$100.44	<u>\$97.84</u>

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7.a. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

Payment is the lower of:

- 1) submitted charge; or
- 2) Medicare cost-per-visit limits based on Medicare cost reports submitted by free-standing home health agencies in the Minneapolis and St. Paul area in the calendar year specified in state legislation governing maximum payment rates.

Effective July 1, 1994, this payment rate is increased by three percent.

Effective for skilled nurse visits on or after July 1, 1998, payment is the lower of the submitted charge or the rate from the chart below.

Service provided on or after:	7/1/98	7/1/99	7/1/00	7/1/01	7/1/02	10/1/05	10/1/06	10/1/07	10/1/08	<u>7/1/09</u>
Skilled Nurse Visit	\$54.37 /visit	\$56.54 /visit	\$59.93 /visit	\$61.73 /visit	\$63.58	\$68.26	\$69.80	\$71.20	\$72.62	<u>\$70.75</u>

Immunizations and other injectables are paid using the same methodology as Item 2.a., Outpatient hospital services.

Home health agencies that administer pediatric vaccines in item 2.a., Outpatient hospital services, available through the Minnesota Vaccines for Children Program pursuant to §1928 of the Act, are paid using the same methodology in item 2.a. for these vaccines.

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7.b. Home health aide services provided by a home health agency.

Payment is the lower of:

- 1) submitted charge; or
- 2) Medicare cost-per-visit limits based on Medicare cost reports submitted by free-standing home health agencies in the Minneapolis and St. Paul area in the calendar year specified in state legislation governing maximum payment rates.

Effective July 1, 1994, this payment rate is increased by three percent.

Effective for home health aide visits on or after July 1, 1998, payment is the lower of the submitted charge or the rate from the chart below.

Service provided on or after	7/1/98	7/1/99	7/1/00	7/1/01	7/1/02	10/1/05	10/1/06	10/1/07	10/1/08	<u>7/1/09</u>
Home Health Aide Visit	\$41.72 /visit	\$43.39 /visit	\$45.99/ Visit	\$47.37/ visit	\$48.79	\$52.38	\$53.57	\$54.64	\$55.73	<u>\$54.29</u>

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7.d. Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health or medical rehabilitation agency.

Physical therapist, occupational therapist, speech pathologist and audiologist services provided by a **home health agency** are paid the lower of:

- (1) submitted charge; or
- (2) Medicare cost-per-visit limits based on Medicare cost reports submitted by free-standing home health agencies in the Minneapolis and St. Paul area in calendar year 1982.

Physical therapy assistant and occupational therapy assistant services provided by a **home health agency** are paid using the same methodology as items 11.a., Physical therapy and 11.b., Occupational therapy.

Effective for therapy visits on or after July 1, 1998, payment is the lower of the submitted charge or the rate from the chart below.

Service provided on or after	7/1/98	7/1/99	7/1/00	7/1/01	7/1/02	10/1/05	10/1/06	10/1/07	10/1/08	<u>7/1/09</u>
Physical Therapy Visit (PT)	\$51.00/visit	\$53.04/visit	\$56.22/visit	\$57.91/visit	\$59.65/visit	\$64.05/visit	\$65.49	\$66.80	\$68.14	<u>\$66.38</u>
Physical Therapy Visit (Ass't.)				\$37.64/visit	\$38.77/visit	\$41.63/visit	\$42.57	\$43.42	\$44.29	<u>\$43.15</u>
Speech Therapy Visit	\$51.78/visit	\$53.85/visit	\$57.08/visit	\$58.79/visit	\$60.55/visit	\$65.01/visit	\$66.48	\$67.81	\$69.17	<u>\$67.39</u>
Occupational Therapy Visit (OT)	\$52.05/visit	\$54.13/visit	\$57.38/visit	\$59.10/visit	\$60.87/visit	\$65.35/visit	\$66.83	\$68.17	\$69.53	<u>\$67.74</u>
Occupational Therapy Visit (Ass't.)				\$38.42/visit	\$39.57/visit	\$42.49/visit	\$43.44	\$44.31	\$45.20	<u>\$44.08</u>
Respiratory Therapy Visit	\$37.85/visit	\$39.36/visit	\$41.72/visit	\$42.97/visit	\$44.26/visit	\$45.26/visit	\$46.28	\$47.21	\$48.15	<u>\$46.91</u>

Services provided by **rehabilitation agencies** are paid using the same methodology as item 5.a, Physicians' services, except that payments are increased by 38% for physical therapy, occupational therapy, and speech pathology services provided by an entity that:



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8. Private duty nursing services.

Payment is the lower of the submitted charge; or the following:

<u>Service provided on or after</u>	<u>7/1/97</u>	<u>7/1/98</u>	<u>7/1/99</u>	<u>7/1/00</u>	<u>6/15/01</u>	<u>7/1/01</u>	<u>7/1/02</u>	<u>10/1/05</u>	<u>10/1/06</u>	<u>10/1/07</u>	<u>10/1/08</u>	<u>7/1/09</u>
Independent Private Duty L.P.N.	\$3.00/ Unit	\$3.09/ Unit	\$3.21/ unit	\$3.40/ Unit	\$5.17 /unit	\$5.78 /unit	\$5.95 /unit	\$6.08 /unit	\$6.22 /unit	\$6.34	\$6.47	<u>\$6.30</u>
Private Duty L.P.N.	\$4.55/ Unit	\$4.69/ Unit	\$4.88/ unit	\$5.17/ Unit	\$5.17 /unit	\$5.78 /unit	\$5.95 /unit	\$6.08 /unit	\$6.22 /unit	\$6.34	\$6.47	<u>\$6.30</u>
Independent Private Duty R.N.	\$4.01/ Unit	\$4.13/ Unit	\$4.30/ unit	\$4.56/ Unit	\$6.73 /unit	\$7.52 /unit	\$7.75 /unit	\$7.92 /unit	\$8.10 /unit	\$8.26	\$8.43	<u>\$8.21</u>
Private Duty R.N.	\$5.93/ Unit	\$6.11/ unit	\$6.35/ unit	\$6.73/ Unit	\$6.73/un it	\$7.52 /unit	\$7.75 /unit	\$7.92 /unit	\$8.10 /unit	\$8.26	\$8.43	<u>\$8.21</u>
Private Duty L.P.N. (complex)	\$5.29/ Unit	\$5.45/ unit	\$5.67/ unit	\$6.01/ Unit	\$6.01/un it	\$6.77 /unit	\$6.97 /unit	\$7.13 /unit	\$7.29 /unit	\$7.44	\$7.59	<u>\$7.39</u>
Private Duty R.N. (complex)	\$6.69/ Unit	\$6.89/ unit	\$7.17/ unit	\$7.60/ Unit	\$7.60 /unit	\$9.03 /unit	\$9.30 /unit	\$9.51 /unit	\$9.72 /unit	\$9.91	\$10.11	<u>\$9.85</u>

**NOTE:** 1 unit = 15 minutes

**Shared care:** For two recipients sharing care, payment is one and one-half times the payment for serving one recipient. This paragraph applies only to situations in which both recipients are present and received shared care on the date for which the service is billed.

Effective March 1, 2006 and ending September 30, 2007, payment for private duty nursing services is increased by .2% for those providers who applied and met the competitive requirements for a medical assistance payment rate increase for the purpose of employee scholarships, except that the increase is .3% effective on or after September 1, 2006, for those providers who agree to accept the higher rate on a contract entered into on or after March 1, 2006 or whose new contract was entered into on or after September 1, 2006.

26. Personal care services.

Payment is the lower of the submitted charge, or the state agency established rate:

Procedure Code	7/1/98	7/1/99	7/1/00	7/1/01	7/1/02	10/1/05	10/1/06	10/1/07	10/1/08	7/1/09
Personal Care by an Agency 1:1	\$3.18/ unit	\$3.31/ unit	\$3.51/ Unit	\$3.62/ unit	\$3.73/ unit	\$3.81 Unit	\$3.90/ unit	\$3.98/ Unit	\$4.06	<u>\$3.96</u>
Personal Care by an Agency 1:2	N/A	\$2.49/ unit	\$2.64/ Unit	\$2.72/ Unit	\$2.80/ unit	\$2.86/ Unit	\$2.93/ unit	\$2.99/ unit	\$3.05	<u>\$2.97</u>
Personal Care by an Agency 1:3	N/A	\$2.20/ unit	\$2.33/ Unit	\$2.40/ unit	\$2.47/ unit	\$2.53/ Unit	\$2.58/ unit	\$2.63/ unit	\$2.68	<u>\$2.61</u>
Supervision of Personal Care by an Agency	\$5.61/ unit	\$5.83/ unit	\$6.18/ Unit	\$6.37/ unit	\$6.56/ unit	\$6.71/ Unit	\$6.86/ unit	\$7.00/ unit	\$7.14	<u>\$6.96</u>

[NOTE: 1 unit = 15 minutes]

**Shared care:** For two recipients sharing services, payment is one and one-half times the payment for serving one recipient. For three recipients sharing services, payment is two times the payment for serving one recipient. This paragraph applies only to situations in which all recipients were present and received shared services on the date for which the service is billed.

**PCA Choice option:** Payment is the same as that paid for personal care assistant services.

Effective March 1, 2006 and ending September 30, 2007, payment for personal care services is increased by .2% for those providers who applied and met the competitive requirements for a medical assistance payment rate increase for the purpose of employee scholarships, except that the increase is .3% effective on or after September 1, 2006, for those providers who agree to accept the higher rate on a contract entered into on or after March 1, 2006 or whose new contract was entered into on or after September 1, 2006.