

§ 441.402

§ 441.402 State plan requirements.

If a State that is eligible to provide community supported living arrangements services as an optional Medicaid service to developmentally disabled individuals provides such services, the State plan must specify that it complies with the minimum protection requirements in § 441.404.

§ 441.404 Minimum protection requirements.

To be eligible to provide community supported living arrangements services to developmentally disabled individuals, a State must assure, through methods other than reliance on State licensure processes or the State quality assurance programs described under section 1930(d) of the Act, that:

(a) Individuals receiving community supported living arrangements services are protected from neglect, physical and sexual abuse, and financial exploitation;

(b) Providers of community supported living arrangements services—

(1) Do not use individuals who have been convicted of child or client abuse, neglect, or mistreatment, or of a felony involving physical harm to an individual; and

(2) Take all reasonable steps to determine whether applicants for employment by the provider have histories indicating involvement in child or client abuse, neglect, or mistreatment, or a criminal record involving physical harm to an individual;

(c) Providers of community supported living arrangements services are not unjustly enriched as a result of abusive financial arrangements (such as owner lease-backs) with developmentally disabled clients; and

(d) Providers of community supported living arrangements services, or the relatives of such providers, are not named beneficiaries of life insurance policies purchased by or on behalf of developmentally disabled clients.

Subpart J—Optional Self-Directed Personal Assistance Services Program

SOURCE: 73 FR 57881, Oct. 3, 2008, unless otherwise noted.

42 CFR Ch. IV (10–1–10 Edition)

§ 441.450 Basis, scope, and definitions.

(a) *Basis.* This subpart implements section 1915(j) of the Act concerning the self-directed personal assistance services (PAS) option through a State Plan.

(b) *Scope.* A self-directed PAS option is designed to allow individuals, or their representatives, if applicable, to exercise decision-making authority in identifying, accessing, managing and purchasing their PAS. This authority includes, at a minimum, all of the following:

(1) The purchase of PAS and supports for PAS.

(2) Recruiting workers.

(3) Hiring and discharging workers.

(4) Training workers and accessing training provided by or through the State if additional worker training is required or desired by the participant, or participant's representative, if applicable.

(5) Specifying worker qualifications.

(6) Determining worker duties.

(7) Scheduling workers.

(8) Supervising workers.

(9) Evaluating worker performance.

(10) Determining the amount paid for a service, support or item.

(11) Scheduling when services are provided.

(12) Identifying service workers.

(13) Reviewing and approving invoices.

(c) *Definitions.* As used in this part—

Assessment of need means an evaluation of the needs, strengths, and preferences of participants for services. This includes one or more processes to obtain information about an individual, including health condition, personal goals and preferences, functional limitation, age, school, employment, household, and other factors that are relevant to the authorization and provision of services. Assessment information supports the development of the service plan and the subsequent service budget.

Individualized backup plan means a written plan that meets all of the following:

(1) Is sufficiently individualized to address each participant's critical contingencies or incidents that would pose a risk of harm to the participant's health or welfare;