

Fact Sheet

Legally Responsible Person as the Paid Worker for Community Alternatives Program Participants

Medicaid Home and Community Based Services

The Community Alternatives Program (CAP) is a Medicaid Home and Community-Based Services (HCBS) program that helps people get care in their homes and communities instead of moving into a nursing facility. There are two CAP programs: the Community Alternatives Program for Children (CAP/C) and the Community Alternatives Programs for Disabled Adults (CAP/DA). Both programs give extra services and supports, and in some cases, a Legally Responsible Person (LRP), such as a parent or guardian, may be approved to serve as a paid caregiver to help provide these supports when extraordinary care is needed.

WHEN CAN AN LRP BECOME A PAID CAREGIVER:

An LRP may serve as a paid worker for a CAP beneficiary when all of the following conditions are met:

- The daily needs of bathing, dressing, toileting, moving and eating of the CAP beneficiary are extensive to maximum.
- One of the extraordinary circumstances listed below applies.
- The LRP meets all the hiring requirements set forth in the program including the passing of a background check (criminal and health registry).

Note: The LRP may be hired by a provider agency or through consumer direction. Hiring through consumer direction, the LRP must assign an Employer of Record (EOR).

The five extraordinary circumstances used to ensure the continuous care of the CAP beneficiary when extraordinary care is required:

- **No available workers:** Documented notes show that local agencies do not have certified nursing assistants (CNAs) or trained workers available in or near the CAP beneficiary's home.
- **Medical Isolation:** Medical files show a documented health condition or special care routine that requires 90 days or less of isolation. The CAP beneficiary's health care condition requires them to remain at home away from non-related people.
- **24-hour care order:** Due to the beneficiary's health condition, a doctor has ordered 24-hour ongoing continuous care. The LRP cannot work inside or outside of the home, or has been fired because they are needed continuously to help with care.
- **Specialized care needs:** Documented medical files show the beneficiary has special health care needs, and the LRP is the only person that can give the care that is needed.

- **Other risks:** Documented medical files show other extraordinary circumstances that put the CAP beneficiary's health, safety and well-being at risk which may lead to a nursing facility placement or long-term hospital stay if care is not given as prescribed.

To confirm extraordinary circumstances exist, examples of required documentations are listed below:

- Physician's orders
- Personnel actions forms (PAF)
- Rejection correspondence from In-home care agencies
- Medical documentation *outlining the beneficiary's need for short term isolation, physician ordered 24-hour direct observation or special health needs.*

LIMITATIONS

- A LRP may be approved to work for up to 40 hours per week based on the results of the comprehensive assessment.
- The number of hours approved is based on the beneficiary's need for extensive to maximum help with daily needs such as bathing, dressing, toileting, moving and eating as described in the assessment.

ROLES AND RESPONSIBILITIES OF THE CASE MANAGEMENT ENTITY:

1. Determining eligibility of one of the five extraordinary circumstances when continuous care needs are at risk:

- The case manager must obtain a physician's order that describes the specific care needs of the beneficiary for the extraordinary circumstances of:
Medical isolation
24-hours care order
Specialized care needs
Other risks .
- The case manager will have evidence from case notes and correspondences from in-home aide agencies and financial management entities of no aides or workers available to provide care.
- The case manager uses the information from the supporting documentation to justify the specific extraordinary circumstances that can be met.
- The case manager must discuss with the LRP the eligibility of meeting one of the extraordinary circumstances and assist the LRP in understanding eligibility decision.
- The case manager must address any concerns or grievances voiced by the LRP regarding the extraordinary circumstances' eligibility decision. Grievances that can't be resolved can be referred to NC Medicaid CAP team for review.
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2. Monitoring the health and well-being of the CAP beneficiary when the LRP is the paid worker:

- The assigned Case Management Entity (CME) must contact the CAP beneficiary two times per month (in-person and by phone) to ensure the health and well-being of the CAP beneficiary.

These monitoring visits must be performed according to the routine monitoring requirements of the CAP program.

3. Monitoring of the LRP's continuous eligibility of meeting the extraordinary circumstances:

- Review of continuous eligibility of CAP enrollment occurs during an annual review or a significant change in the beneficiary status.
- Review of the eligibility of extraordinary circumstances should occur during the same interval of times. The extraordinary circumstances of isolation must be reviewed after the 90th day.
- When a decision is made that the extraordinary circumstances can no longer be met, the case manager will develop a transition plan to begin the replacement of the LRP as the paid caregiver. The case manager will work with in-home agency or the employer of record to begin the recruitment of another worker.

REFERENCE

Community Alternatives Program for Disabled Adults (CAP/DA) policy: medicaid.ncdhhs.gov/3k-2-community-alternatives-program-disabled-adults-capda/download?attachment%20#page=36

Community Alternatives Program for Children (CAP/C) policy: medicaid.ncdhhs.gov/3k-1-community-alternatives-program-children-capc/open#page=113

Attendant Nurse care fact sheet - medicaid.ncdhhs.gov/attendant-nurse-care-fact-sheet/download?attachment

Consumer Direction initial training power point presentation - medicaid.ncdhhs.gov/assisting-families-direct-their-care-through-consumer-directed-services-presentation/download?attachment

Becoming a paid caregiver (in home aide & pediatric nurse aide) power point presentation - medicaid.ncdhhs.gov/becoming-paid-caregiver-home-aide-pediatric-nurse-aide-services-presentation/download?attachment

[Frequently asked questions about consumer direction](#)

[Frequently asked questions about being paid caregiver for IHA & PNA](#)

[Attendant Nurse Care \(ANC\) PowerPoint presentation](#)

[Frequently asked questions regarding ANC service](#)

[Frequently asked questions regarding CAP blended services](#)

