

Legally Responsible Person/Legally Responsible Individual/Legal Guardian as Paid Caregiver Review Tool for Community Alternatives Program for Children

Instructions

The Case Management Entity (CME) should leverage this document as a guide during the initial assessment and the annual Continued Needs Review (CNR) for considering extraordinary circumstances (EC) when a Legally Responsible Person (LRP)/Legally Responsible Individual (LRI)/Legal Guardian (LG) serves as the Paid Caregiver.

Written documentation must be provided to support extraordinary circumstance(s). Below are suggested documents which may be submitted to the CME. The list is not intended to be all-inclusive and other documentation not specifically listed or identified below may be provided to the CME to demonstrate that an EC is met. If the extraordinary circumstance(s) is based on medical need, the written documentation must be from a qualified medical professional.

LRPs/LRIs/LGs are re-evaluated for meeting extraordinary circumstances annually or at the end of the period the LRP/LRI/LG is approved as a paid caregiver, whichever is less. If during the quarterly in-home visit the CME identifies a significant change in circumstances or needs affecting the qualifying EC that impacts the health, safety or well-being of the beneficiary, upon discovery the CME should leverage this review tool to document the change and update the plan of care to change the paid caregiver status.

Note: A parent is a legal guardian of a minor child unless the parent's guardianship has been terminated by a court order or another legal document.

Beneficiary name:

MID:

Date of Review:

CME:

Extraordinary Circumstance Criteria:

(Age 17 and under)

The beneficiary's situation must meet one of the criteria, A through E below, to qualify.

A: There are no available CNAs in the CAP/C beneficiary's county or adjunct counties through a Home Health Agency or In-Home Aide Agency due to a lack of qualified providers, and the CAP/C beneficiary needs extensive to maximal assistance with bathing, dressing, toileting and eating daily to prevent institutionalization.

Does beneficiary's situation meet the following criteria? (Check all that apply)

- There are no available CNAs in the beneficiary's county or adjacent counties (initial request) OR Regular and consistent recruitment efforts made by CM and EOR are documented (continued request).
- Beneficiary needs extensive to maximal assistance with bathing, dressing, toileting and eating daily above and beyond what is age appropriate to prevent institutionalization.

Suggested documentation for Initial Assessment and Annual CNR for meeting Criteria A:

- Written notices (on letterhead or emailed) from direct care providers indicating the inability to staff due to a lack of available workers. *Family refusal or rejection of a provider is not a qualification.*
- If written notices cannot be obtained, provide the name of the agency contacted, the full name of the person(s) who provided the staffing deficiency, the contact information used to contact the agency, and the date(s) of the contact.
- Documentation of any additional efforts made to hire qualified workers.

B: The CAP/C beneficiary requires short-term isolation, 90 days or less, due to experiencing an acute medical condition/health care issue requiring extensive to maximal assistance with bathing, dressing, toileting and eating, and the CAP/C beneficiary chooses to receive care in their home instead of an institution.

Does the beneficiary's situation meet the following criteria? (Check all that apply)

- Beneficiary has a documented acute medical condition requiring short term isolation.

- Beneficiary requires extensive to maximal assistance with bathing, dressing, toileting and eating above and beyond what is age-appropriate.
- Family chooses in-home care over institutionalization.

Suggested documentation for Initial Assessment and Annual CNR for meeting Criteria B:

- Documentation of a physician's treatment order, which must include the diagnosis(es) causing the need for isolation, an explanation of the need for isolation and the duration of the isolation (not to exceed 90 days). *A letter of support or recommendation from a physician does not qualify as medical documentation of a treatment order.*
- Approval will be granted only for the duration of the isolation order.

C: The CAP/C beneficiary requires physician-ordered 24-hour direct observation and, or supervision specifically related to the primary medical condition(s) to assure the health and welfare of the CAP/C beneficiary and avoid institutionalization, and the legal guardian is not able to maintain full or part-time employment due to multiple absences from work to monitor and/or supervise the CAP/C beneficiary; regular interruption at work to assist with the management of the CAP/C beneficiary's monitoring or supervision needs; or an employment termination.

Does the beneficiary's situation meet the following criteria? (Check all that apply)

- Beneficiary has physician-ordered 24-hour direct observation/supervision related to primary medical condition(s).
- LG is unable to maintain full or part-time employment:
 - Frequent absences
 - Work interruptions
 - Job loss

Suggested documentation for Initial Assessment and Annual CNR for meeting Criteria C:

- A physician's order that outlines the requirement for 24-hour direct observation due to the primary diagnosis.
- Written documentation of the inability to maintain employment due to the need to manage the beneficiary's 24-hour care. This includes, but is not limited to, personnel action forms, termination notices, emails or written documentation from

employers, or documentation of frequently missed work. *Documentation from an employer does not need to specify basis for any personnel actions. (initial request)*

- Written documentation explaining the inability to mitigate the need for 24-hour direct observation and the inability to find alternate employment. (continued request)
 - For example, if a child had intractable seizures that are frequent and unpredictable, and employment challenges occurred as a result. If the child receives appropriate medical treatment and evaluation and the seizures are still intractable and frequent, that would be an acceptable explanation, which supports continued approval of the LRP/LRI. However, if medical intervention controls the seizures so that they are no longer frequent, then that would be an appropriate reason to discontinue approval of the LRP/LRI.
- Choosing to remain unemployed does not qualify as the inability to maintain employment. Written documentation from a physician/provider regarding employment does not qualify.

D: The CAP/C beneficiary has specialized health care that can only be provided by the legal guardian, as indicated by medical documentation, and these health care needs require extensive to maximal assistance with bathing, dressing, toileting and eating to ensure the health and welfare of the CAP/C beneficiary and avoid institutionalization.

Does the beneficiary's situation meet the following criteria? (Check all that apply)

- The beneficiary has specialized health care needs that can **ONLY** be provided by the LG, as indicated by medical documentation.
- Beneficiary requires extensive to maximal assistance with bathing, dressing, toileting and eating above and beyond what is age-appropriate.

A legal guardian is not disqualified from meeting extraordinary circumstances solely by the use of approved respite hours.

Suggested documentation for Initial Assessment and Annual CNR for meeting Criteria D:

- Medical documentation stating justification that the LG is the **ONLY** person able to provide for the specialized health needs. *Letters from physicians stating that the LRP is the **best** person or most **appropriate** person due to familiarity of needs do not qualify.*

- A care plan outlining the specialized healthcare needs that can only be provided by the LG.

E: Other documented extraordinary circumstances not previously mentioned that place the CAP/C beneficiary's health, safety and well-being in jeopardy resulting in an institutional placement.

Does the beneficiary's situation meet the following criteria? (Check all that apply)

- Other documented issues jeopardizing health, safety or well-being.

Suggested documentation for Initial Assessment and Annual CNR for meeting Criteria E:

- Medical documentation of specific circumstances that would result in institutional placement, if the LRP/LRI/LG is not serving as the paid caregiver.

Extraordinary Circumstance Criteria:

(Age 18 and older with legal guardian)

The beneficiary's situation must meet one of the three criteria below to qualify.

1. The beneficiary is experiencing a cognitive or intellectual limitation, and the presence of an unfamiliar individual is more disruptive than productive, and the beneficiary requires additional assistance with activities of daily living (ADLs) than ordinary as identified in a service plan.

Does the beneficiary's situation meet the following criteria? (Check all that apply)

- The beneficiary has a cognitive or intellectual limitation
- The presence of an unfamiliar individual is documented to be more disruptive than productive
- Beneficiary requires additional assistance with ADLs (e.g. maximal to extensive assistance) as identified in a service plan

Suggested documentation for Initial Assessment and Annual CNR for meeting Criteria 1:

- A functional or adaptive assessment from a qualified medical professional that details/describes the impact of unfamiliar individuals on the beneficiary.
- 2.** The beneficiary is in an area with limited access to service providers and the assessment of needs identifies that the waiver participant requires five or more hours per day of uninterrupted personal care.

Does the beneficiary's situation meet the following criteria? (Check all that apply)

- The beneficiary lives in an area with limited access to service providers
- The beneficiary requires five or more hours per day of uninterrupted personal care.

Suggested documentation for Initial Assessment and Annual CNR for meeting Criteria 2:

- Written notices (on letterhead or emailed) from direct care providers indicating the inability to staff due to a lack of available workers. *Family refusal or rejection of a provider is not a qualification.*
 - If written notices cannot be obtained, provide the name of the agency contacted, the full name of the person(s) who provided the staffing deficiency, the contact information used to contact the agency and the date(s) of the contact.
 - Documentation of any additional efforts made to hire qualified workers.
- 3.** The beneficiary has a secondary diagnosis of mental illness or an intellectual disability and the behavior, because of this illness, poses harm to an unfamiliar person or past behaviors have alienated service providers.

Does the beneficiary's situation meet the following criteria? (Check all that apply)

- The beneficiary has a secondary diagnosis of mental illness or an intellectual disability
- Due to illness, the beneficiary's behaviors pose harm to an unfamiliar person OR the beneficiary's past behaviors have alienated service providers

Suggested documentation for Initial Assessment and Annual CNR for meeting
Criteria 3:

- Documentation from a qualified medical professional that demonstrates the behavior is a consequence of the diagnosis and poses a risk, such as reports detailing past aggressive incidents or behaviors that alienated service providers or caused harm.