



## Patient Protection and Affordable Care Act

### Sec. 2401. Community First Choice Option

### At-A-Glance

Focus Area	Description
<b>Purpose</b>	As of October 2011, amends 1915 of the Social Security Act to allow States to provide “Community-Based Attendant Services and Supports.”
<b>Federal Financial Participation</b>	Federal medical assistance percentage applicable to the State (as determined under section 1905(b)) is increased by six percentage points.
<b>State Financing</b>	Maintain or exceed the level of State expenditures during the first full fiscal year in which the State plan amendment is implemented when compared to medical assistance provided during the preceding fiscal year under section 1905(a), section 1915, section 1115, or otherwise.
<b>Clinical Eligibility</b>	Individuals eligible for medical assistance under the State plan and require assistance with activities of daily living (ADLs), instrumental activities of daily living (IADLs), and/or health related tasks through hands-on assistance, supervision, or cueing.
<b>Financial Eligibility</b>	Income does not exceed 150 percent of the poverty line or, if greater, the income level applicable for an individual who has been determined to require an institutional level of care to be eligible for nursing facility services under the State plan.
<b>Scope of Services</b>	<p>States must provide services statewide and based on individual need rather than age, disability, or type of support required. States must provide services in the most integrated “home and community-based setting” appropriate (does not include a/an “nursing facility, institution for mental diseases, or intermediate care facility for the mentally retarded”).</p> <ul style="list-style-type: none"> <li>▪ <u>Required services and supports</u> are assistance with ADLs, IADLs, and health related tasks; skills development; back up systems/mechanisms; and voluntary training on how to select, manage, and dismiss attendants.</li> <li>▪ <u>Permissible services and supports</u> may include transition costs associated with leaving a facility setting and expenditures to increase independence or substitute for human assistance to the extent that expenditures would have otherwise been made for human assistance.</li> <li>▪ <u>Excluded services and supports</u> are individual room and board costs; special education and related services; vocational rehabilitation services; assistive technology and services (except emergency back up devices); medical supplies and equipment; and home modifications.</li> </ul>
<b>Systems Design</b>	<p>Community-based attendant services and supports are provided through an “agency-provider model or other model” both of which require the individual/representative to select, manage, and dismiss workers. Services are controlled “to the maximum extent possible” by the individual/representative, regardless of employer of record. Systems components include:</p> <ul style="list-style-type: none"> <li>▪ Functional needs assessments;</li> <li>▪ Person-centered plans;</li> <li>▪ “Qualified” attendants/services, including family members (as defined by the Secretary);</li> <li>▪ Adherence to Fair Labor Standards Act of 1938 and applicable Federal and State laws (income and payroll taxes, unemployment and workers compensation insurance, general liability insurance, and occupation health and safety);</li> <li>▪ Comprehensive Quality Assurance System; and</li> <li>▪ Annual evaluation, data collection, and reporting.</li> </ul> <p style="text-align: right;">(Document continues on next page)</p>

**Summary Created by the National Resource Center for Participant-Directed Services**

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<b>Quality Management</b>	<p>States must implement a Comprehensive Quality Assurance System, which includes:</p> <ul style="list-style-type: none"> <li>▪ Standards for training, appeals/denials, and individual plan reviews;</li> <li>▪ Stakeholder feedback mechanism (see Stakeholder section);</li> <li>▪ Monitoring health, well-being, and allegations of neglect, abuse, or exploitation through mandated reporting, investigation, and resolution processes;</li> <li>▪ Sharing of information on the Quality Assurance System to individuals receiving services; and</li> <li>▪ Collecting/reporting information required by Secretary to allow for amendment approval, Federal oversight, and evaluation (such as information on systems design, costs of services, and methods for providing choice).</li> </ul>
<b>Evaluation and Data Collection</b>	<p>States must collect data to determine effectiveness of model, its impact on physical and emotional health, and cost comparative to institutional care. Annual data collection is required for the following:</p> <ul style="list-style-type: none"> <li>▪ Estimated number of individuals to be served in upcoming fiscal year;</li> <li>▪ Number of individuals served in the preceding fiscal year;</li> <li>▪ Number of individuals served by type of disability, age, gender, education level, and employment status; and</li> <li>▪ Individuals' previous home and community-based services utilization.</li> </ul>
<b>Stakeholder Involvement</b>	<p>States must involve stakeholders in the following manner:</p> <ul style="list-style-type: none"> <li>▪ Develop a person-centered plan agreed upon in writing by the individual/representative;</li> <li>▪ Collaborate (in design of amendment and ongoing) with a State-established Development and Implementation Council that includes a majority of members with disabilities, elders, and representatives; and</li> <li>▪ Develop a mechanism within the Quality Assurance System for participants, representatives, families, providers, disability organizations, community members, and “others” to provide feedback.</li> </ul>
<b>Important Definitions</b>	<ul style="list-style-type: none"> <li>▪ <u>Consumer-controlled</u> is a method of selecting and providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of home and community-based attendant services and supports, regardless of who acts as the employer or record.</li> <li>▪ <u>Agency-provider model</u> is a method of providing consumer-controlled services and supports under which entities contract for the provision of services and supports.</li> <li>▪ <u>Other models</u> are methods, other than an agency-provider model, for the provision of consumer-controlled services and supports. Such models may include the provision of vouchers, direct cash payments, or the use of a fiscal agent to assist in obtaining services.</li> <li>▪ <u>Health-related tasks</u> are specific tasks related to the needs of an individual, which can be delegated or assigned by licensed health-care professionals under State law to be performed by an attendant.</li> </ul>

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