



Last Updated: 11/06/2023

## Update to Legally Responsible Individuals Rules Effective November 11, 2023

The purpose of this bulletin is to provide information regarding the permanent provision of payment to legally responsible individuals for personal care services. Effective November 11, 2023 the temporary federal flexibilities allowed by an Appendix K waiver amendment and described in the Medicaid Memo dated April 22, 2020 will be replaced by the new program rules defined in this bulletin. The Department of Medical Assistance Services (DMAS) is required by the Centers for Medicare and Medicaid Services (CMS) to sunset any temporary provider participation flexibilities which allowed more lenient hiring policies to be implemented during the COVID-19 state of emergency for personal care or personal assistance services. This bulletin outlines the permanent policy and procedures that will allow for legally responsible individuals to provide care that meets the federal 1915(c) waiver requirements and allows the Commonwealth continued access to the necessary federal financial support for these services. These changes apply to personal care services provided through the Commonwealth Coordinate Care Plus, Community Living, and the Family and Individual Supports Waivers. Please note that respite and companion services are not impacted by this change as they were not included in the services provided by legally responsible individuals. The prior flexibilities never applied to services provided through the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit or the Medicaid Works program and therefore are not included in this new policy. This bulletin does not apply to parents providing personal care services to children over the age of 18 or non-legally responsible relatives to a person receiving personal care services.

*In accordance with Item 304.PPPP of the 2022 Virginia Acts of Assembly, the Department "shall allow legally responsible individuals (parents of children under age 18 and spouses) to provide personal care/personal assistance services and be paid for those services when circumstances prevent an individual from being cared for by a non-parent caregiver. Any legally responsible individual who is a paid aide or attendant for personal care/personal assistance services shall meet all the same requirements as other aides or attendants."*

Parents of children under age 18 and spouses are also known as legally responsible individuals (LRIs). DMAS developed guidelines and processes outlined in this Medicaid Bulletin to comply with Federal and State requirements.

Effective November 11, 2023, the following criteria apply for an LRI to receive reimbursement for personal care services.

1. No one else is available to provide services to the member. This means all avenues have been explored, and the LRI providing the service is the last resort. Circumstances



must be documented on the Extraordinary Care (EC) form ([Attachment 1](#)) that is completed by the Employer of Record/Member/family, Services Facilitator/personal care agency, and case management entity. The detailed process is described in the Legally Responsible Individual Process Flow ([Attachment 2](#)).

2. LRIs are permitted to work up to 40 hours per week. The 40-hour-per-week limit includes reimbursement when caring for multiple children. This, in no way, prevents a member from being authorized for more than 40 hours of care. Personal care hours are authorized based on the documented needs of the member in the Plan of Care. This limit is strictly for the number of hours a LRI may be reimbursed weekly.
3. LRIs may receive reimbursement for “extraordinary care.” This means LRIs will continue to be responsible for meeting the typical care needs of a member younger than 18 years old. This includes the need for assistance and supervision typically required for children at various stages of growth and development. Instrumental activities of daily living, such as cooking, cleaning, laundry, etc., are not included in extraordinary care.
4. Respite services are not available when the LRI is the paid caregiver.
5. Having the LRI serve as the paid aide/attendant must be in the member's best interest.

In addition to the above, the following applies when the member receives personal care through Consumer Direction.

### Employer of Record (EOR) Requirements for Members Under Age 18

The EOR must:

1. Not be another LRI or stepparent
2. Live in the member’s local community within a 50-mile radius. This will ensure the EOR will be able to manage the personal care services and employee.
3. Complete an enhanced EOR agreement as part of Fiscal-Employer Agent enrollment. The agreement will be part of the EOR enrollment packet for members with an LRI as the attendant.



4. Be assessed by the Services Facilitator (SF) using the Consumer-Direction Services Management Questionnaire (DMAS 95B) to ensure the ability to manage the services ([Attachment 3](#)).
5. The member must receive services facilitation services.

**These EOR requirements do not apply to an adult member who hires a spouse to be the paid attendant.**

## LRI Requirements

The LRI must:

1. Meet all the requirements of any other paid aide/attendant regardless of which model is used (agency or consumer-directed)
2. Document tasks daily on the Consumer Directed Legally Responsible Attendant form ([Attachment 4](#)). This must be available for review by SFs and DMAS/MCOs as requested.

The attached flow chart explains the process of becoming an LRI personal care aide/attendant ([Attachment 2](#)).

DMAS will be conducting training for providers, members, and their families on the process for reimbursement of LRIs for personal care services. DMAS sent emails to providers on September 22, 2023, listing the dates and times for upcoming trainings. Recordings of these trainings will be available on the new DMAS webpage for LRI information at:

<https://dmas.virginia.gov/for-providers/long-term-care/waivers/legally-responsible-individuals/>. The following table provides details for training for members and their families.

### **MEMBER AND FAMILY TRAINING**

#### **DATE/TIME**

Tuesday, October 3<sup>rd</sup>  
9:00 a.m. EST

#### **JOINING INFORMATION**

**Join on your computer, mobile app or room device**

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# MEDICAID BULLETIN

Tuesday, October 3<sup>rd</sup>  
3:00 p.m. EST

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Wednesday, Oct 4<sup>th</sup>  
10:00 a.m. EST

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## **PROVIDER CONTACT INFORMATION & RESOURCES**

### **Virginia Medicaid Web Portal Automated Response System (ARS)**

Member eligibility, claims status, payment status, service limits, service authorization status, and remittance advice.

<https://vamedicaid.dmas.virginia.gov/>

### **Medicall (Audio Response System)**

Member eligibility, claims status, payment status, service limits, service authorization status, and remittance advice.

1-800-884-9730 or 1-800-772-9996

### **KEPRO**

Service authorization information for fee-for-service members.

<https://dmas.kepro.com/>



# MEDICAID BULLETIN

## Provider Appeals

DMAS launched an appeals portal in 2021. You can use this portal to file appeals and track the status of your appeals. Visit the website listed for appeal resources and to register for the portal.

<https://www.dmas.virginia.gov/appeals/>

## Managed Care Programs

Medallion 4.0, Commonwealth Coordinated Care Plus (CCC Plus), and Program of All-Inclusive Care for the Elderly (PACE). In order to be reimbursed for services provided to a managed care enrolled individual, providers must follow their respective contract with the managed care plan/PACE provider. The managed care plan may utilize different guidelines than those described for Medicaid fee-for-service individuals.

### Medallion 4.0

<http://www.dmas.virginia.gov/#/med4>

### CCC Plus

<http://www.dmas.virginia.gov/#/cccplus>

### PACE

<http://www.dmas.virginia.gov/#/longtermprograms>

### Magellan Behavioral Health

[www.MagellanHealth.com/Provider](http://www.MagellanHealth.com/Provider)

Behavioral Health Services Administrator, check eligibility, claim status, service limits, and service authorizations for fee-for-service members.

For credentialing and behavioral health service information, visit:

[www.magellanofvirginia.com](http://www.magellanofvirginia.com),

email: [VAProviderQuestions@MagellanHealth.com](mailto:VAProviderQuestions@MagellanHealth.com), or

Call: 1-800-424-4046

## Provider HELPLINE

Monday-Friday 8:00 a.m.-5:00 p.m. For provider use only, have Medicaid Provider ID Number available.

1-804-786-6273

1-800-552-8627

Aetna Better Health of Virginia

[www.aetnabetterhealth.com/Virginia](http://www.aetnabetterhealth.com/Virginia)

1-800-279-1878

Anthem HealthKeepers Plus

[www.anthem.com/vamedicaid](http://www.anthem.com/vamedicaid)

1-800-901-0020

Molina Complete Care

1-800-424-4524 (CCC+)

1-800-424-4518 (M4)

Optima Family Care

1-800-881-2166 [www.optimahealth.com/medicaid](http://www.optimahealth.com/medicaid)

United Healthcare

[www.Uhcommunityplan.com/VA](http://www.Uhcommunityplan.com/VA)

and [www.myuhc.com/communityplan](http://www.myuhc.com/communityplan)

1-844-752-9434, TTY 711

Virginia Premier

1-800-727-7536 (TTY: 711), [www.virginiapremier.com](http://www.virginiapremier.com)