

DHS Responses to Public Comments Regarding Amendment to ARChoices to allow Inpatient Attendant Care

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Comment: Pursuant to the directions outlined for public comments in the Friday, September 23, 2022, Amendment to ARChoices to [A]llow Inpatient Attendant Care Memorandum, the Medicaid Fraud Control Unit offers the following response to the proposed revisions:

New language at Issue: “Notwithstanding the foregoing, pursuant to Section 3715 of the CARES Act, Section 1902(h)(1) of the Social Security Act, attendant care services are not prohibited as specified if the services are (a) identified in an individual’s person-centered plan (or comparable plan of care), (b) provided to meet needs of the individual that are not met through the provision of hospital services; (c) not a substitute for services that the hospital is obligated to provide through its conditions of participation or under Federal or State law, or under applicable requirement; and (d) designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual’s functional abilities. Moreover, such services may be covered and reimbursable on days when the participant has been admitted to an inpatient hospital or institution. Under such circumstances, attendant care services may be covered or reimbursable, availability of Arkansas Medicaid State Plan Services notwithstanding.”

Sections 211.000 and 213.210 - As to the language that reads, “Moreover, such services may be covered and reimbursable on days when the participant has been admitted to an inpatient hospital or institution,” it appears to be too broad. Specifically, what institutions are included? Does this include long term care facilities in any way?

Will there be specific policies and procedures for the application of the new language referenced above?

What will the process look like with respect to the implementation of the new language noted above? For example, when a participant is admitted into an acute care hospital/inpatient hospital/institution, what will the notification process entail? What will be the process for verification of services rendered? How will the prior approval process work?

Who will be responsible for providing instructions (training, e.g.) as to what is expected of the hospital or institution’s staff and the attendant care workers?

What will be the process for handling inpatient incidents/accidents and care complaints?

Under Section 213.210 – One section reads, in pertinent part, “Attendant care services are not available (not covered and not reimbursable) through the ARChoices program when and to the extent any of the following may apply:... E. On dates of service when the participant:...5. Receives services from an inpatient hospital, nursing facility, assisted living facility,...or, residential care facility, unless approved in writing by a PCSP/CC Nurse as reasonable and necessary given the time of day of the facility admission or discharge...”. Then, at the bottom of that section, the new language is noted, stating that notwithstanding the foregoing, attendant care services are not prohibited if the services meet the

qualifications in (a)-(d). The language further states, “Moreover, such services may be covered and reimbursable on days when the participant has been admitted to an inpatient hospital or institution.” Does the new language make the approval of the PCSP/CC Nurse referenced in (E)(5) unnecessary?

Response: After further considering the amendment language per your inquiry, DHS anticipates its submission for approval to CMS to limit the service setting to “inpatient hospital” and delete “or institution”.

Following approval by CMS, future processes and implementation will be consistent with DHS current processes and procedures, including the need for Person Centered Service Plans and the Prior Authorization process.

Thank you for your comments.

Berrie Nichols, RN, BSN, CEO

In Focus Care INC

Comment: Providers must use up 64 hours of personal care FIRST before we can use any attendant hours. So, what this is saying is that the first part of the month, a client cannot have an aide in the hospital but if they go in during the middle or the end of the month, they can? Do you know what the reasoning is for this? I don’t think this change was well thought out. It seems to me that AR Choices clients should be able to have someone in the hospital for PC and Attendant hours, that way they can get an aide anytime during the month, that they go in the hospital. Just my thoughts....

Response: Our proposed amendment originated from federal Public Health Emergency provisions addressing expansion of service settings and remain subject to CMS approval.

Thank you for your comment.